

1 UNITED STATES BANKRUPTCY COURT
2 WESTERN DISTRICT OF NEW YORK

3 _____

4 IN RE: Case No: 20-10322 (CLB)

5 THE DIOCESE OF BUFFALO, N.Y.,

6 Debtor. Chapter 11

7 _____

8 THE DIOCESE OF BUFFALO, N.Y.,

9 Plaintiff, Adv. No: 20-01016

10 v.

11 JMH 100 DOE, ET AL., Chapter 11

12 Defendants.

13 _____

14 DEPOSITION

15 _____

16

17 WITNESS: JOHN M. SCHOLL

18 DATE: Thursday, November 16, 2023

19 START TIME: 11:11 a.m.

20 END TIME: 3:50 p.m.

21 REMOTE LOCATION: Remote Legal platform

22 REPORTER: Jaime Godinez, CER-1260

23 JOB NO.: 20996

24

25

1 A P P E A R A N C E S

2

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5 Syracuse, New York 13202

6 By: BRENDAN SHEEHAN, ESQUIRE

7 By: CHARLES SULLIVAN, ESQUIRE

8 By: JUSTIN KRELL, ESQUIRE

9 By: STEPHEN DONATO, ESQUIRE

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11 Appearing for The Diocese of Buffalo, N.Y.

12

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17 By: BRITTANY M. MICHAEL, ESQUIRE

18 By: ILAN SCHARF, ESQUIRE

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20 Appearing for Official Committee of Unsecured

21 Creditors

22

23 ALSO PRESENT:

24 Sarah Schroeter, Notary Public

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1 P R O C E E D I N G S

2 THE REPORTER: Good morning. We are now
3 on the record. Today's date is November 16th, 2023, and
4 the time is approximately 11:11 a.m. Eastern. My name
5 is Jaime Godinez, and I'm the officer designated by
6 Remote Legal, 11 Broadway, Suite 456, New York, New
7 York, to take the record of this proceeding.

8 This is the deposition of John M. Scholl,
9 taken in the matter of In Re: The Diocese of Buffalo,
10 New York, Case Number 20-10322 CLB, filed in the United
11 States Bankruptcy Court, Western District of New York.

12 Would all counsel please identify
13 themselves for the record, starting with the noticing
14 attorney, and state who they represent.

15 MR. NASATIR: Iaian Nasatir, Pachulski
16 Stang, on behalf of the Committee.

17 MR. SHEEHAN: Good morning. Brendan
18 Sheehan, the firm Bond, Schoeneck & King, on behalf of
19 The Diocese of Buffalo. We also have from Bond,
20 Schoeneck & King attorneys Stephen Donato, Charles
21 Sullivan, and Justin Krell.

22 MR. NASATIR: And I'll identify for the
23 record that Ilan Scharf, my partner, Ilan Scharf, and
24 Brittany Michael from Pachulski Stang are attending
25 also, well, by audio.

1 THE REPORTER: Thank you so much.

2 And will the notary please identify
3 herself for the record.

4 THE NOTARY PUBLIC: Good morning. My
5 name is Sarah Schroeter, I'm a notary public for Remote
6 Legal.

7 THE REPORTER: Thank you.

8 This deposition is being taken remotely
9 and is being conducted pursuant to the procedural rules
10 and laws of the state which governs this matter. As
11 such, all parties agree to this means of capturing the
12 official record, which may include recording by audio
13 and/or audiovisual means, and agree not to oppose
14 admission of this proceeding on the basis of the
15 personnel, or method by which the testimony in this
16 proceeding was captured.

17 Do the parties so stipulate?

18 MR. NASATIR: Yes.

19 MR. SHEEHAN: Yes.

20 THE REPORTER: Thank you.

21 Would the notary please swear in the
22 witness.

23 THE NOTARY PUBLIC: Good morning, Mr.
24 Scholl.

25 MR. SCHOLL: Good morning.

1 THE NOTARY PUBLIC: Would you please
2 state and spell your name for the record?

3 MR. SCHOLL: John Scholl, J-O-H-N, last
4 name, S-C-H-O-L-L.

5 THE NOTARY PUBLIC: Thank you. Mr.
6 Scholl, would you please raise your right hand. Do you
7 swear or affirm that the testimony you are about to give
8 will be the truth, the whole truth, and nothing but the
9 truth?

10 MR. SCHOLL: I do.

11 WHEREUPON,

12 J O H N M. S C H O L L
13 having been called as a witness, being duly sworn by the
14 notary public present, testified as follows:

15 THE NOTARY PUBLIC: Thank you.

16 THE REPORTER: Thank you.

17 Counsel, you may begin.

18 EXAMINATION

19 BY MR. NASATIR:

20 Q Good morning, Mr. Scholl.

21 A Good morning.

22 Q My name is Iain Nasatir. I'm a partner in the
23 law firm of Pachulski Stang, representing the Committee,
24 and I'll be asking you some questions today about your
25 declaration that was submitted back in 2020.

1 Let me start with, could you provide your name
2 and address, current address, for the record.

3 A Yes.

4 Q Could you provide your current address for the
5 record, please.

6 MR. SHEEHAN: He's asking for your
7 current address.

8 THE WITNESS: For work?

9 You want my home address or my work
10 address?

11 BY MR. NASATIR:

12 Q Yes. So that your -- so the transcript can be
13 mailed to you.

14 A Okay. It's 231 Crescent Avenue, C-R-E-S-C-E-
15 N-T, Buffalo, New York 14214.

16 Q Thank you. Have you been deposed before?

17 A Yes.

18 Q How many times?

19 A I don't recall exactly. Just one or two.

20 Q Okay. Can you tell me the circumstances under
21 which you gave testimony by deposition?

22 A For other diocese liability cases.

23 Q Can you be more specific, please?

24 A I don't recall the exact cases. They were
25 personal injury, trip and fall type cases and lawsuits

1 where I was deposed.

2 Q And what was the nature of the testimony you
3 gave?

4 A Relative to insurance coverage for the -- the
5 matter at hand.

6 Q Okay. So your testimony related to the
7 insurance available, that was issued to the Diocese; is
8 that right?

9 A That's correct.

10 Q Okay. Do you recall, was it the Diocese of
11 Buffalo?

12 A Yes.

13 Q Okay. Have you ever testified in court?

14 A Yes.

15 Q How many times?

16 A Once.

17 Q Okay. What was the circumstances under which
18 you gave testimony in court?

19 A I was -- I had testified before a grand jury
20 for the I -- what we call the IRCP program for the
21 Diocese of Buffalo, which I'm sure you're familiar with.

22 Q Was this a grand jury investigation that was
23 created by the New York Attorney General's Office?

24 A I'm not aware who --

25 Q Okay.

1 A -- who did it. All I know is, I was asked to
2 testify.

3 Q Okay. And the scope of your testimony was the
4 IRCP program?

5 A Correct.

6 Q Okay. Do you have any recollection of
7 approximately when that testimony took place?

8 A About three years ago. Two to three years
9 ago.

10 Q Okay. I'm going to go through some of the
11 rules of the deposition road. I'm sure you're familiar
12 with them, but just in case, since it's been a while,
13 let me go through them.

14 Because you're under oath you have an
15 obligation to tell the truth. Do you understand that?

16 A Yes.

17 Q Okay. Everything we say here is on the record
18 and will appear in a written transcript. Do you
19 understand that?

20 A Yes.

21 Q You've seen a deposition transcript before,
22 have you?

23 A Yes, I have.

24 Q Okay. With that, the transcription of this
25 deposition will be given to you, you'll have an

1 opportunity to review it, make changes to the transcript
2 before a certain deadline, and then sign it. Do you
3 understand that?

4 A Yes.

5 Q To the extent you make any changes to the
6 deposition, I, or another attorney on my behalf, will be
7 able to comment on the changes made after to live
8 testimony. Do you understand that?

9 A Yes.

10 Q Okay. If you don't understand my question,
11 will you please let me know?

12 A Yes, I will.

13 Q Okay. It's important that we don't speak at
14 the same time. I will try and let you finish your
15 answers, I'd appreciate if you'd let me finish my
16 questions. Understood?

17 A Yes.

18 Q Are you comfortable that you understand the
19 rules we've just discussed?

20 A Yes.

21 Q All right. You're going to testify as a fact
22 witness as opposed to an expert witness; is that your
23 understanding?

24 A Yes.

25 Q Okay. Where are you located right now?

1 A In the offices of Bond, Schoeneck & King, in
2 Buffalo, New York.

3 Q Okay. And you have a lawyer present to
4 represent you?

5 A Yes.

6 Q And who is that? Is that Mr. Sheehan?

7 A Yeah, Brendan Sheehan.

8 Q Okay. Is there anyone else in the room with
9 you?

10 A No.

11 Q Do you understand that you're not allowed to
12 contact anyone else about the subject of this
13 deposition, now you've been sworn in?

14 A Correct. Yes.

15 Q Okay. You understand it's my position if you
16 do have discussions with anyone, including your counsel,
17 I'm entitled to inquire as to the nature of those
18 communications, and you are required to disclose them.
19 Do you understand that?

20 A Yes.

21 Q Is there any reason you cannot testify
22 competently and truthfully today?

23 A No reason.

24 Q Excellent. Your declaration has provided me
25 with sufficient background for your education. So

1 perhaps you could just tell me the chronology of your
2 employment at the Diocese.

3 A The Diocese, I was hired in March of 1999 to
4 become the insurance services director, to take over for
5 someone who had left that position.

6 Q Okay. And you continue in that position
7 today?

8 A Yes, I do.

9 Q Okay. How old are you, sir?

10 A 69.

11 Q Got it. Have you ever been a party to a
12 lawsuit personally?

13 A No.

14 Q Okay. Have you ever testified in a tribunal
15 other than a court?

16 A No.

17 Q All right. Have you ever been subject to any
18 form of disciplinary proceeding?

19 A No.

20 Q Okay. Did you prepare -- did you review any
21 materials to prepare for your deposition today?

22 A Yes, I -- I reviewed my declaration from 2020.

23 Q Okay. Anything else?

24 A I did review the motion itself.

25 Q The motion for a preliminary injunction?

1 A Yes. Just to --

2 Q Anything else?

3 A -- familiarize --

4 Q Excuse me. I spoke over you. Say that again.

5 A I said, just to familiarize myself with that
6 motion.

7 Q Okay. Did you review Ms. Potzler's
8 declaration in support of the motion?

9 A Yes, I did review that, as well.

10 Q Okay. Was there anything you saw in Ms.
11 Potzler's declaration you thought was inaccurate?

12 A No.

13 Q Okay. When you reviewed your -- well, having
14 reviewed your declaration of April 30th, 2020, was --
15 did you determine that it was truthful when you signed
16 it back in 2020?

17 A Yes.

18 Q Okay. And do you believe it to be truthful as
19 it sits here today?

20 A Yes.

21 Q Okay. Were you involved in the production of
22 documents responsive to the Committee's document request
23 relating to the preliminary injunction?

24 A Not sure what you mean. Can you repeat that?

25 Q Sure. Let me see if I can successfully pull

1 up an exhibit, and we'll discuss it that way. All
2 right.

3 A I did submit a number of documents to Bond,
4 Schoeneck & King, as it relates to this matter.

5 Q Okay. And I'm going to try and share an
6 exhibit. Review. Do you see a document on your screen?
7 Do you have a screen?

8 A Yes.

9 MR. NASATIR: Okay. I'd like the
10 reporter to mark this as Scholl Deposition Exhibit 10.

11 (Scholl 10 marked for identification.)

12 MR. SHEEHAN: Are you able to read that?

13 THE WITNESS: Oh, yes.

14 MR. SHEEHAN: Okay.

15 MR. NASATIR: Well, if I understand it
16 correctly, you have the ability to zoom in on them.

17 MR. SHEEHAN: Yes, correct.

18 MR. NASATIR: And you can also hit the
19 full screen. That would help you, too.

20 THE WITNESS: I can read it fine.

21 BY MR. NASATIR:

22 Q All right. So Mr. Scholl, have you seen this
23 document before?

24 A I don't recall.

25 Q Okay. In this, I'm just going to -- all

1 right, here we go, for one of these. This request,
2 Number 10, that I've zoomed in on, do you -- can you
3 read it?

4 A Yes.

5 Q Do you see it says, "All documents concerning
6 the costs of the IRCP program."

7 MR. SHEEHAN: One moment, please.

8 MR. NASATIR: Sure.

9 MR. SHEEHAN: Let us know when you've had
10 a chance to read --

11 THE WITNESS: All right.

12 MR. SHEEHAN: -- Number 10.

13 BY MR. NASATIR:

14 Q What I want to address here is the document
15 numbers that are down here. Do you know if you
16 participated in a search for documents that are
17 responsive to this request?

18 A Yes.

19 Q Yes, you did participate?

20 A I -- I'm not sure exactly what you're asking.
21 To this -- what is, "this request"? Request Number 10?

22 Q Yeah.

23 A "All documents concerning" -- okay.

24 Q Let me ask it a different way, Mr. Scholl.

25 A Yeah.

1 Q You were asked for search -- to search for
2 documents recently; is that right?

3 A Recently? Yes.

4 Q Did your attorneys ask -- did an attorney from
5 Bond, Schoeneck & King ask you to search for documents?

6 MR. SHEEHAN: Objection, to the extent
7 that answering would call for attorney-client privileged
8 information, I'd instruct you not to answer. If you can
9 answer without doing so, you may.

10 THE WITNESS: No.

11 MR. NASATIR: So Mr. Sheehan, I really
12 want to cut to the quick here. You represented to me in
13 an email that the documents were produced from Mr.
14 Scholl's review of documents from the Diocese
15 administrative records, something to that effect.

16 MR. SHEEHAN: Yes. As we represented to
17 you, that the documents we produced, I believe it was
18 last Friday, were provided by Mr. Scholl.

19 The objection is to the extent that
20 you're asking him specifically what we asked him to
21 search for. That information is privileged.

22 MR. NASATIR: I just want to understand
23 what he did. So just --

24 MR. SHEEHAN: Okay.

25 BY MR. NASATIR:

1 Q Mr. Scholl, I'm directing this to you. What
2 did you do to search for documents?

3 A I had records on my computer. I also had
4 some, say, paper file records in my office at the
5 Diocese. And yes, I -- I did search for records to
6 provide to Bond, Schoeneck & King.

7 Q And what were the grounds on which you
8 determined that the documents you were searching for
9 were ones that would be produced to the Committee?

10 A Their relevance to just information about the
11 insurance program itself.

12 Q Okay. And in particular, the IRCP program?

13 A No.

14 Q You said no or yes? I couldn't hear you.

15 A No.

16 MR. NASATIR: Oh. Okay. Okay. I need
17 to stop sharing the other exhibit. How do I go about
18 doing that?

19 THE REPORTER: I'll go ahead and close
20 that exhibit for you. Just give me a moment.

21 MR. NASATIR: Thank you very much.

22 And let's mark this as Scholl Deposition
23 Exhibit 11.

24 (Scholl 11 marked for identification.)

25 BY MR. NASATIR:

1 Q Mr. Scholl, can you identify this document?

2 A Yeah. That is a loss report through what we
3 call STARS claim management system. And it represents
4 information on misconduct claims between July 1st, 2013,
5 and present.

6 Q And when we say misconduct claims, are we
7 talking about sexual abuse alleged claims?

8 A It -- sexual abuse, and sexual harassment.
9 Anything in the misconduct area of insurance.

10 Q Okay. Why is the inception date July 1, 2013?

11 A Because I provided 10 years' worth of loss
12 information. And that began in July 1st of 2013.

13 Q Does the Diocese operate on a calendar year
14 basis of July 1?

15 A No.

16 Q What's the relevance of the July 1 date?

17 A That is the -- what I'll call the insurance
18 year.

19 Q Okay.

20 A The majority of our insurance policies run
21 from July 1 to July 1, and that is what we consider our
22 insurance year.

23 Q Got it. So this -- is this the totality of
24 misconduct claims that your loss run cultivated for the
25 time after July 1, 2013?

1 A That we were aware of, yes.

2 Q Okay. Does this include claims that are
3 represented by proofs of claims filed in the bankruptcy?

4 A No.

5 Q Do these -- does this list represent
6 litigation claims?

7 A Poten -- not all of them, but potentially some
8 of them, yes.

9 Q But it also includes other claims that have
10 not been brought to litigation?

11 A Correct.

12 Q Okay. And this loss run captures the costs
13 that have been incurred to date?

14 A Yes.

15 Q And that would be the last column on the
16 right?

17 A That would be the -- the total cost of a
18 particular claim, correct.

19 Q Okay. And does this include both open and
20 closed claims?

21 A Yes.

22 Q So if I understand this correctly, and please
23 let me know if I don't, the total incurred claims here
24 is 1 -- cost -- so the total incurred cost of these
25 misconduct claims is \$1,142,130.04?

1 A That would be the total incurred. Correct.

2 Q Okay. Thank you.

3 MR. NASATIR: All right. All right. I'm
4 finished with this exhibit, so you can remove it. Thank
5 you. All right.

6 BY MR. NASATIR:

7 Q In the course of -- or prior to your
8 deposition have you met with Ms. Potzler about the
9 preliminary injunction?

10 A No.

11 Q Okay. Have you spoken to Ms. Potzler about
12 the self-insurance program, which I'm going to refer to
13 as SIP? Do you understand SIP is self-insurance
14 program?

15 A Yes. Yes.

16 Q And did you meet with Ms. Potzler about that
17 program?

18 A In what --

19 MR. SHEEHAN: Objection.

20 THE WITNESS: In what -- in what time
21 period?

22 BY MR. NASATIR:

23 Q In the context of preparing for your
24 deposition.

25 A No.

1 Q Okay. Do you have access to the priest files?

2 A No.

3 Q Prior to working for the Diocese of Buffalo,
4 did you have any prior relationship with the Diocese of
5 Buffalo?

6 A No.

7 Q Did you have a prior relationship with any
8 diocese, other than the Diocese of Buffalo, before they
9 hired you?

10 A No.

11 (Pause.)

12 MR. NASATIR: I apologize. I'm looking
13 through the document production and I'm having a little
14 difficulty finding what I want. Here we go. Can you
15 mark this document, please, as Scholl Exhibit 12.

16 (Scholl 12 marked for identification.)

17 BY MR. NASATIR:

18 Q Have you seen this before, Mr. Scholl?

19 A I -- I don't recall seeing this document
20 before.

21 Q Okay. I'm going to scroll down and say that
22 this is DOB_Gen0003167. It was part of the production
23 made on Friday, November 10th.

24 MR. SHEEHAN: And was this a document
25 that was produced on the 10th, or that was referenced in

1 our responses?

2 MR. NASATIR: I believe it was produced
3 on the 10th. But it may have -- it may have been --
4 come from -- there was only two sources it would've come
5 from, the documents produced on the 10th, or productions
6 that were put into Everlaw. And as I say, it bears a
7 Bates stamp number.

8 BY MR. NASATIR:

9 Q If you don't recall seeing this document
10 before, Mr. Scholl, I'm just going to ask you if you
11 would read it, and tell me if you see anything that you
12 either disagree with or that you're not familiar with.

13 A Okay. I'll do that.

14 Q You said, compared with that? Is that the
15 question to me?

16 A No.

17 Q Okay.

18 A I didn't say anything.

19 Q Okay. I just wanted you to read this and let
20 me know if there's anything in here which you thought
21 was either inaccurate or was information that you did
22 not have before.

23 A This is information I did not have before.

24 Q Okay. Then we're going to close this off.

25 Okay.

1 Are you involved in coordinate efforts of
2 defense counsel in Child Victim Act cases prior to the
3 Diocese filing for bankruptcy?

4 A Yes.

5 Q Can you give -- tell me the nature of your
6 involvement?

7 A Prior to the Child Victim Act going in --
8 going into law, there were a number of, we'll say,
9 lawsuits that were filed -- now, you're saying before
10 the enactment of the CVA?

11 Q No, I -- my question was directed to before
12 the filing for bankruptcy.

13 A Okay. Yes, and I responded --

14 Q And I was --

15 A I'm sorry. Yes, there were a number of
16 lawsuits, due to the Child Victim Act, that were
17 reported to my office for potential insurance coverage,
18 and was involved -- not alone, but I was involved in the
19 process of referring all of these lawsuits to
20 appropriate counsel.

21 Q Prior to the bankruptcy filing, how many
22 defense counsel did the Diocese employ to defend itself
23 in these CVA claims?

24 A For CVA claims?

25 Q Yes.

1 A Prior to bankruptcy, three firms.

2 Q Which firms were those?

3 A Connors LLP, Chelus Herdzik Speyer. And the
4 name escapes me on -- on the third.

5 Q Did any of those three firms have the
6 predominant amount of work?

7 A The predominant amount of work would've been
8 Connors LLP.

9 Q Okay. And can you give me a percentage of --

10 A No, I can't.

11 Q You can't. Well, was it over 50 percent of
12 the cases?

13 A I -- I don't know.

14 Q Okay. Okay. Besides -- sorry.

15 In connection with coordinating with defense
16 counsel, did you select the defense counsel for the
17 individual CVA cases?

18 A No.

19 Q Okay. Who did?

20 A That was through discussions between the three
21 firms.

22 Q Okay. So you did -- so you were not involved
23 in determining who got the cases?

24 A Correct.

25 Q Okay. What did you do -- what made up the

1 work that you did in, quote, "coordinating" defense
2 counsel?

3 A Well, usually the -- when the lawsuits started
4 coming in, pre-bankruptcy filing, lawsuits were referred
5 to me. In other words, they were served to the Diocese,
6 they -- they were ultimately given to me. And then I
7 coordinated the -- I would review -- I would review the
8 lawsuit, and I would then discuss that -- well, in the
9 beginning, at that time, it was through Connors LLP, and
10 we would -- we really wouldn't discuss the cases. What
11 we were more concerned with was just getting these
12 lawsuits logged in and accounted for.

13 Q And was the primary goal, from your
14 perspective, to make sure that the insurance company
15 that was covering the claim was on notice, and was
16 participating?

17 A Well, my main goal was to make sure that any
18 lawsuit was properly responded to within the timeframe
19 allowed through the court system.

20 Q So once you'd selected counsel, that became
21 counsel's responsibility, correct?

22 A I'm sorry, what became counsel's
23 responsibility?

24 Q Responding to the lawsuit timely.

25 A Yes.

1 Q Okay. So what other involvement did you have
2 after making sure that counsel had the lawsuit to
3 respond timely?

4 A I was also in the process of working with our
5 coverage attorneys who were involved, Blank Rome, and
6 again, just to make them aware of these lawsuits coming
7 in. Thank you.

8 Q Did you actively participate in any of the
9 litigation defending the Diocese against abuse claims?

10 A No, I did not.

11 Q Did you actively participate in any of the
12 coverage actions that Blank Rome was defending or
13 bringing?

14 MR. SHEEHAN: Objection to form. You can
15 answer.

16 THE WITNESS: Sorry?

17 MR. SHEEHAN: You can answer.

18 THE WITNESS: Oh. Okay. I had a -- I
19 had correspondence with -- with Blank Rome on these
20 cases, yes.

21 BY MR. NASATIR:

22 Q Were you involved in strategizing over the
23 defense of the Diocese in the abuse claims?

24 MR. SHEEHAN: Objection, to the extent
25 answering would call for attorney-client privileged

1 information, I instruct you not to answer. If you can
2 answer that question without divulging that information,
3 you may do so.

4 THE WITNESS: No, I won't answer that.

5 MR. NASATIR: It's a yes/no question. It
6 doesn't divulge any privileged information. I ask you
7 to reconsider, Mr. Sheehan.

8 MR. SHEEHAN: Could you please restate
9 the question, or repeat it?

10 BY MR. NASATIR:

11 Q Were you involved in the defense of the
12 Diocese over abuse claims?

13 A No.

14 Q Were you involved in strategizing coverage
15 positions the Diocese was taking with respect to
16 insurers on abuse claims?

17 A Yes.

18 Q Okay. How much time, on any -- strike that.

19 How often did that occur?

20 A Back in the beginning, when many of the
21 initial suits were filed, I spent a lot of time on that.

22 Q Okay. Have the position -- are you spending
23 any more time on that now?

24 MR. SHEEHAN: Objection to form. You can
25 answer, if you know.

1 THE WITNESS: Okay. Repeat the question.

2 Because I --

3 MR. NASATIR: I will rephrase. I will
4 rephrase the question.

5 BY MR. NASATIR:

6 Q Are you spending time now on coverage
7 positions the Diocese is taking with respect to its
8 insurers on the abuse claims?

9 A Yes.

10 Q Okay. Approximately how much time?

11 A It -- it varies. Could be correspondence with
12 Blank Rome or Bond, Schoeneck & King.

13 Q Okay. Can you give me a sense of whether it's
14 an hour in your day or something else?

15 A I would say hour or less a day right now.

16 Q Okay. Have you received coverage positions
17 from most of the insurers in the abuse claims?

18 A Me, personally, no. That information has been
19 communicated to Blank Rome.

20 Q So you were not involved in the day-to-day
21 coverage positions that the insurers are taking with
22 Blank Rome?

23 A Day-to-day, no.

24 Q Okay. After you -- you said you reviewed the
25 pleadings of an abuse claim that comes in, and then

1 determine that a -- that there would be a law firm that
2 will respond to the pleading, right?

3 A That's correct.

4 Q After you've done that, do you have any
5 further -- do you do any further review of the pleadings
6 or any of the filings in the particular state court
7 action regarding abuse claims?

8 A Prior to the enactment of the Child Victim
9 Act, yes.

10 Q Okay. After that?

11 A After that, I did have some involvement with
12 those particular cases.

13 Q Okay. What was your level of involvement?

14 A Are you speaking of the lawsuits that were
15 filed once the window opened in August of 2019?

16 Q Yes, I am. Thank you for asking --

17 A All right.

18 Q -- me to clarify.

19 A Yeah. I had significant involvement in all of
20 those lawsuits that were filed post-August 14, 2019.

21 Q What did you do?

22 A What did I do? I -- again, as I said, I
23 reported the cases, there were emails back and forth,
24 and phone conversations with -- initially with Connors
25 LLP. When it became evident that there were going to be

1 a significant amount of lawsuits filed, two other firms
2 were contacted to assist in that process.

3 I had a lot of involvement looking into the
4 particular years involved with the lawsuit, the
5 insurance coverage that was potentially involved in
6 those lawsuits.

7 Q Do you feel currently that the Diocese has a
8 firm handle on the amount of insurance available on
9 these abuse claims?

10 MR. SHEEHAN: Objection to form. You can
11 answer, if you know.

12 THE WITNESS: I -- I honestly don't know.
13 My -- a firm handle on the insurance coverage post 19 --
14 post July 1, 1973, yes. Pre-1973, no.

15 BY MR. NASATIR:

16 Q Okay. Well that -- let's -- thank you again
17 for clarifying. Let's stick with the post-'73 period.

18 A Okay.

19 Q Do you think there's any further work that you
20 need to do on establishing the level of insurance
21 coverage available to the Diocese on these CVA claims?

22 MR. SHEEHAN: Objection to form, but you
23 can answer, if you know.

24 THE WITNESS: Are you saying -- are you
25 asking if I will have involvement going forward?

1 BY MR. NASATIR:

2 Q Well, I -- let's ask you to answer that
3 question first.

4 A Can you repeat the question?

5 Q Is there any further insurance coverage work
6 that you, Mr. Scholl, need to do on the post-1973
7 coverage for CVA claims?

8 A Yes. And -- yes, in a advisory role.

9 Q What type advice are you contemplating giving?

10 A Or advising the -- the bishop and folks up in
11 -- you know, the -- our COO. And also collaboration
12 with coverage attorneys at Blank Rome.

13 Q What would you be collaborating with Blank
14 Rome on?

15 A Specific insurance coverage that may apply to
16 the CVA cases.

17 Q So you're saying you do not have -- I used a
18 firm handle on, but let's use a different phrase. Let
19 me restate the question.

20 You believe there's further coverage work to
21 do with respect to claims that fall in the post-1973
22 insurance coverage years?

23 MR. SHEEHAN: Objection to form. You can
24 answer, if you know.

25 THE WITNESS: Yes, there's more work to

1 do --

2 MR. NASATIR: What type of --

3 THE WITNESS: -- I believe.

4 MR. NASATIR: Excuse me. Sorry.

5 BY MR. NASATIR:

6 Q Had you finished your answer?

7 A Yes, I have finished my answer.

8 Q Okay. What type of work is there for you to
9 do?

10 A I would say just a continuation of -- now, if
11 you're talking about claims within bankruptcy court --
12 are you talking about lawsuits outside of bankruptcy?

13 Q Both.

14 A Both.

15 Q But if you want to break them down, let's do
16 that. What further work do you have to do with respect
17 to proofs of claim filed in the bankruptcy court that
18 relate to the post-1973 coverage periods?

19 A I have little involvement with that particular
20 aspect, within the bankruptcy.

21 Q Okay. Outside of the bankruptcy, what
22 involvement do you have?

23 A Well, as of right now, very little. Because
24 the lawsuits against the related entities are -- are
25 currently under protection of stay.

1 Q And what work do you see yourself having to do
2 if the stay is no longer in place?

3 A If the stay is no longer in place, I would --
4 I would pretty much have to completely change my job to,
5 I would say, 75 percent, maybe even 100 percent of my
6 time being involved in those cases.

7 Q And what would your involvement constitute?

8 A It would constitute researching claims,
9 collaborating with appropriate counsel, getting into
10 discussions of settlements, further research on
11 insurance coverage and potential limits, and limit
12 exhaustion, aggregate exhaustion. All those types of
13 matters related to insurance.

14 Q When you say collaborating with appropriate
15 counsel, could you be more specific?

16 A There would be discussions with the Connors,
17 and likely the other two firms, to discuss the specifics
18 of the case, the -- the matter of the lawsuit itself,
19 the merits of the lawsuit, and potential insurance
20 coverage that might come out of it.

21 Q Would your involvement in discussions of the
22 merits of the lawsuit be limited to its impact on an
23 insurance coverage?

24 A Yes.

25 Q Okay. Prior to filing for bankruptcy, when

1 there was no stay in place, were you researching claims
2 and collaborating with appropriate counsel, as it was --
3 involves insurance?

4 A Yes.

5 Q And you were able to do your job adequately?

6 A No. My -- my regular --

7 Q Can you explain?

8 A -- job, as director of insurance, no. A lot
9 of my time was taken away from that because of the just
10 large numbers of lawsuits and discussions. I had to
11 rely on other people. And -- and even some of my job
12 functions took a back seat to the handling of the
13 lawsuits.

14 Q Okay. Have you read all the CVA lawsuits,
15 complaints?

16 A Every one, no.

17 Q How many?

18 A I don't -- I can't answer that. I don't know.

19 Q Okay. Is it closer to 10 or closer to 800?

20 A Oh, definitely in the hundreds.

21 MR. NASATIR: Okay. Let's mark as Scholl
22 Exhibit 1 the declaration of John Scholl, please.

23 (Scholl 1 marked for identification.)

24 BY MR. NASATIR:

25 Q Is this the 2020 declaration that we've been

1 referring to in your deposition?

2 A Yes.

3 Q Can you describe to me the process involved in
4 your preparation of this declaration?

5 A I -- as far as the -- the process of putting
6 this together?

7 Q Yes.

8 A Well, with my -- I went through my background,
9 my expertise in the area, and I worked with the
10 attorneys at Bond, Schoeneck & King to put this
11 together.

12 Q Did somebody prepare an initial draft for you?

13 MR. SHEEHAN: Objection, to the extent
14 that answering the question would call for attorney-
15 client privilege information, I instruct you not to
16 answer. If you can do so without divulging that
17 information, you may do so.

18 THE WITNESS: I'm following my attorney's
19 advice not to answer. It would divulge attorney-client
20 privilege information.

21 BY MR. NASATIR:

22 Q Did you revise your declaration any time
23 before it was filed?

24 MR. SHEEHAN: I will assert the same
25 objection. But if you can answer without divulging

1 attorney-client privilege information, you may do so.

2 THE WITNESS: I -- I don't recall
3 revising it. Unless there was a couple of misspellings
4 or tweaks in there.

5 BY MR. NASATIR:

6 Q Let's -- I want you to read paragraph 3.
7 Let's start at the end there. What appropriate diocesan
8 personnel and advisors did you speak with in order to
9 create this declaration?

10 A Diocesan personnel and advisors.

11 Q Yes. Who?

12 A I'm reading it right now.

13 Q Sure.

14 A The appropriate diocesan personnel at that
15 time would've been the bishop, and the chief financial
16 officer, who was my director. I reported directly to
17 the CFO at that time.

18 Q And who was --

19 A (Indiscernible - simultaneous speech) --

20 Q -- the CFO?

21 A Pardon?

22 Q I said, who was the CFO?

23 A At that time, Steven Timmel.

24 Q Okay.

25 A Now, are you talking -- I'm sorry, I want to

1 clarify -- in 2020?

2 Q Yes.

3 A In 2020, the CFO was Charles Mandolera. Mr.
4 Timmel left the Diocese in, I believe, February of 2019.

5 Q The point of my question was to establish who
6 you spoke with in order to make this declaration. So
7 did you speak with Mr. Mandolera in order to create this
8 declaration?

9 A To create the declaration?

10 Q To draft the declaration?

11 A To draft it? No. That was all me.

12 Q Okay. But the information contained in this
13 declaration, was any of it derived from conversations
14 you had with Mr. Mandolera?

15 A No.

16 Q Or Mr. Timmel?

17 A No. Mr. Timmel was not employed at the
18 Diocese at that time.

19 Q Okay. And was any in the -- information in
20 this declaration derived from conversations you had with
21 the bishop?

22 A No.

23 Q Okay. So is -- so does paragraph 3 accurately
24 reflect all the bases upon which you provided
25 information that's contained in your declaration?

1 A Yes, it is accurate.

2 Q Okay. Looking at paragraph 13, are you aware
3 of whether there have been any additional CVA cases
4 brought against the Diocese or against SIP, as what you
5 call SIP participants?

6 MR. SHEEHAN: Can you just take a moment
7 and let Mr. Scholl review paragraph 13 first?

8 MR. NASATIR: Absolutely.

9 MR. SHEEHAN: Thanks.

10 (Pause.)

11 THE WITNESS: Okay. I went through it.
12 What is -- what is your question?

13 BY MR. NASATIR:

14 Q Are you aware of whether there have been
15 additional CVA cases filed against SIP participants,
16 where the Diocese has not been named as a defendant?

17 A Yes, I am aware of that.

18 Q Okay. Do you know approximately how many?

19 A Several hundred. But I -- I do not know
20 exactly how many.

21 Q Okay. Have you read all those complaints?

22 A Not all of them, no.

23 Q Okay. How many?

24 A Of those particular ones, I would say at least
25 half.

1 Q Okay. Have you compared the statement you
2 make -- let me put it a different way.

3 Do you know if those additional lawsuits also
4 allege identical facts and claims against the Diocese,
5 against SIP participants?

6 MR. SHEEHAN: Objection to form. You can
7 answer, if you know.

8 THE WITNESS: To my knowledge, several --
9 many of those lawsuits were the same lawsuits filed that
10 had named the Diocese as a defendant, and that the
11 Diocese was removed as a defendant, and basically the
12 same lawsuit was filed.

13 BY MR. NASATIR:

14 Q And how many of those types of lawsuits are
15 you aware of?

16 A Over 200, that I'm aware of.

17 Q That's where the defendant -- the Diocese, as
18 a defendant, has been removed?

19 A Well, the Diocese is not named as a defendant
20 in those lawsuits against SIP participants where the
21 Diocese is not named.

22 Q I understood you to say, but that -- in those
23 types of lawsuits it's identical to the lawsuit that was
24 filed against the Diocese, except the Diocese has been
25 removed as a defendant. Is that right?

1 A In some of the cases, that is my
2 understanding. I did not read every lawsuit, so I can't
3 comment on the ones I did not read. Ones I did read
4 through in their entirety were identical, in my opinion,
5 to the original lawsuits.

6 Q Okay. And how many fell into that category?

7 A I couldn't say. I don't know.

8 Q Okay. And do you know how many of them make
9 no distinction between the conduct of the Diocese and
10 the conduct of the SIP participants?

11 MR. SHEEHAN: Objection to form. You can
12 answer, if you know.

13 THE WITNESS: No, I do not know that.

14 MR. NASATIR: Okay. All right. Just
15 give me a minute here.

16 (Pause.)

17 BY MR. NASATIR:

18 Q Let's take a look at the first sentence in
19 paragraph 14. You say, "In its capacity as the
20 administrator of the SIP program, the Diocese has taken
21 a lead role in defending itself, and other SIP
22 participants, in the CVA cases."

23 A Okay. Yes.

24 Q Okay. What is it -- sorry -- are there any
25 documents that reflect that the Diocese is the

1 administrator of the SIP program?

2 A There are no written documents to that effect.

3 Q Okay. On what basis has the Diocese taken the
4 lead role in defending itself, and the other SIP
5 participants, in the CVA cases?

6 A Taking the lead role is really because the
7 insurance program, the joint insurance program that I am
8 director of, or administrator of, any -- any claim that
9 happens to a SIP participant is reported to my office,
10 as -- as respects insurance coverage, or potential
11 insurance coverage.

12 Q So it makes no difference if the Diocese is
13 named or not, in terms of taking -- the Diocese taking a
14 lead role?

15 A That's correct.

16 Q And the context in which you're talking about
17 taking the lead role is with respect to insurance
18 coverage?

19 A Insurance coverage, and getting attorney --
20 attorneys involved to handle the -- the legal aspect of
21 those lawsuits.

22 Q Putting aside the insurance coverage aspect,
23 once the case has been assigned to defense counsel, what
24 other involvement do you personally have?

25 MR. SHEEHAN: Objection to form. You can

1 answer.

2 THE WITNESS: What personal -- okay, what
3 personal involvement do I have once a lawsuit has been
4 assigned to counsel? Is that what --

5 MR. NASATIR: Yes.

6 THE WITNESS: -- you're asking? I have
7 conversations with counsel, I have conversations with
8 parishes, to keep them updated on those particular
9 cases.

10 BY MR. NASATIR:

11 Q And that's not -- that's not for respective --
12 that's -- excuse me. Let me start again.

13 That's not concerning insurance, that's
14 noninsurance aspects, right?

15 A I'm not sure what you mean by noninsurance
16 aspects. Assigning counsel is -- won't say
17 noninsurance, but it certainly does involve,
18 potentially, the insurance. That -- that is my main
19 goal, is to find out if there's insurance coverage for
20 these actions.

21 Q With respect to the -- let's start again.
22 The SIP program began in 1973?

23 A That is correct.

24 Q Okay. Prior to the SIP program, the Diocese
25 did not, itself, procure insurance; is that right?

1 MR. SHEEHAN: Objection to form. You can
2 answer.

3 THE WITNESS: The Diocese procured
4 insurance for the Diocese of Buffalo legal entity, SIP -
5 - now, SIP participant's parishes, who are independent
6 corporations, they procured their own insurance.

7 BY MR. NASATIR:

8 Q Prior to 1973?

9 A Correct.

10 Q Have you found any policies that the Diocese
11 procured for itself before 1973?

12 A No, we have not.

13 Q Have you been involved in searching for
14 insurance policies that were issued to the parishes or
15 non-debtors prior to 1973?

16 A Yes, I have been involved in that process.

17 Q When were you involved?

18 A When was I involved in that process?

19 Q Yes.

20 A To my recollection, it was around the time of
21 the filing of bankruptcy and the beginning of the covid
22 pandemic.

23 Q Okay.

24 A Early in -- early 2020.

25 Q Have you done any further -- or have you been

1 involved in any further searching for parish insurance
2 after that time?

3 A Yes.

4 Q What have you been doing?

5 A I searched diocese archives; I searched --
6 literally went into the basement and go through boxes
7 and files. I've gone to the insurance agencies who
8 started this -- we'll say the SIP program in 1973, went
9 in through their archives and basements looking for
10 records.

11 I've also gone through many parishes, digging
12 through information, looking for records.

13 Q Did you find any insurance policies?

14 A No, I did not.

15 Q Okay. Have any of the CVA state court actions
16 moved forward since the petition date?

17 A To my knowledge, no.

18 Q I didn't hear your answer.

19 A I said, to my knowledge, no.

20 Q Okay. When did the IRCP come into effect?

21 A That came into effect in 2018.

22 Q And I'm looking currently at the last portion
23 of paragraph 14 of your declaration. Is that referring
24 to the IRCP?

25 A One second; I'm pulling it up now.

1 Q Sure.

2 A (indiscernible) a chance to -- oh, I -- okay,
3 yes, I -- I see what you're referring to.

4 Q What was the source of the \$18,000,000?

5 MR. SHEEHAN: Objection.

6 You can answer to the extent that itâ€™s
7 not divulging privileged information.

8 THE WITNESS: Okay. Actually, I don't
9 know the exact source of -- of -- of the funding, but I
10 was not involved in the decision on where that money
11 came from.

12 BY MR. NASATIR:

13 Q Would you have known if it came from the SIP
14 program funds?

15 A I would've known if it came from the SIP
16 program -- program funds.

17 Q So we can eliminate the SIP program as being
18 the source of the 18,000,000?

19 A Yes.

20 Q Were you involved in the IRCP?

21 A Yes, I was

22 Q What role did you have?

23 A At that time in 2018, I had a very active
24 role. At that time, Steven Timmel was the CFO who was,
25 shall we say, the -- weâ€™ll say the administrator of the

1 IRCP, and I was directly involved with Steve in the
2 handling of the IRCP claims. Connors LLP was also very
3 actively involved as our counsel in the program.

4 Q Were you involved in determining what claims
5 were accepted into the IRCP?

6 A No, I was not.

7 Q Were you involved in settling claims using the
8 IRCP?

9 A No, I was not.

10 Q Do you have any knowledge of the range of
11 values of settlements that the IRCP produced?

12 MR. SHEEHAN: Objection to form.

13 To the extent that answer would call for
14 privileged information. And, Iain, this line of
15 questioning is beginning to go far afield to the subject
16 matter of the motion that's pending.

17 MR. NASATIR: Are you instructing him not
18 to answer?

19 MR. SHEEHAN: I'm instructing him if the
20 answer calls for privileged information not to answer.

21 THE WITNESS: Okay. I'm following the
22 advice of Counsel.

23 MR. NASATIR: So it's your position that
24 the range of settlements in the IRCP is privileged
25 information? Mr. Sheehan?

1 MR. SHEEHAN: Correct.

2 MR. NASATIR: Okay. I'm going to want to
3 come back to this exhibit, but for the moment, I'm going
4 to ask the Reporter to, I don't know, shelve it?
5 Whatever you can do? Take it away, to bring it back
6 shortly? Thank you.

7 Let me mark as Exhibit 2, Scholl Exhibit
8 2, a document that states "Memo" on it. It's
9 DOB_General2616, and the first page has the date May 10,
10 2019. I'm going to scroll to this page here. All
11 right. And I'm currently looking at page 2618.

12 (Scholl 2 marked for identification.)

13 MR. SHEEHAN: We can't see --

14 MR. NASATIR: Okay.

15 MR. SHEEHAN: Go ahead.

16 MR. NASATIR: I'm on page 2618. And tell
17 me when you're ready.

18 MR. SHEEHAN: Let him know when you've
19 had a chance to read that.

20 THE WITNESS: Okay. I've had a chance to
21 read it through.

22 BY MR. NASATIR:

23 Q Okay. Have you seen this document before?

24 A No, I have not.

25 Q Do you recall being at a finance council

1 meeting on or about March 14, 2019 to present a report
2 regarding the IRCP?

3 A Yes, I do recall being there.

4 Q Okay. And do you see here that you reported
5 that there were an unexpectedly large number of claims
6 that you were previously unaware of?

7 A Yep.

8 Q Why were the large number of claims
9 unexpected?

10 MR. SHEEHAN: Objection to form.

11 You can answer if you know.

12 THE WITNESS: Why were they unexpected?
13 They had never been reported to the insurance department
14 in the past. We just had no knowledge that these were
15 there.

16 BY MR. NASATIR:

17 Q The insurance department, you mean your -- the
18 --

19 A Yes.

20 Q -- Diocese of Buffalo's insurance department?

21 A Correct.

22 Q Do you see here where it says "Compensation
23 awards issued ranging from 2,000 to 650,000"?

24 A Yes, I do see that.

25 MR. NASATIR: Well, I guess if this was

1 privileged, Mr. Sheehan, it's been waived.

2 BY MR. NASATIR:

3 Q Is this 17.6-million in the next bullet point
4 the approximate 18-million that you referred to in your
5 declaration in paragraph 14?

6 A Yes, it is.

7 Q I think you testified you had no involvement
8 in the awards?

9 A Correct.

10 Q Okay. And you had no involvement in
11 determining what claims satisfied the IRCP eligibility
12 requirements?

13 A I had no involvement in that.

14 Q Okay. Oh, shoot; I closed that, and I didn't
15 mean to. Let me just back to it for one second. My
16 apologies.

17 MR. NASATIR: Could you bring that
18 exhibit back up, Mr. Reporter?

19 THE REPORTER: Which exhibit number was
20 that?

21 MR. NASATIR: It was 2.

22 THE REPORTER: 2. Okay.

23 MR. NASATIR: I think it was 2.

24 THE REPORTER: Okay.

25 MR. NASATIR: I didn't realize that once

1 I mark it, I lose it. It is up? I can't see it.

2 THE REPORTER: I did pull it up. Let me
3 try pulling it up again --

4 MR. NASATIR: I'm not -- I think this is
5 it. Yeah, thank you.

6 THE REPORTER: Sometimes there's a lag;
7 I'm sorry.

8 MR. NASATIR: That's okay. I just need
9 to scroll down here.

10 Can you rotate this to the right?

11 THE REPORTER: Did you want me to rotate
12 that to the right?

13 MR. NASATIR: Yes. I'm sorry; yes, I did
14 want you to rotate it to the right. I don't see that
15 tool in my toolbar.

16 THE REPORTER: Let's see here. Just give
17 me a second. So I'm rotating it to the right. I don't
18 know if I'm able to bring everyone to see what I'm
19 seeing. I know the attorneys are able to do that, but
20 I'm not sure if the reporter is.

21 On the toolbar, you see on top, there's a
22 page with a little gear wheel in it? When you hover
23 over it --

24 MR. NASATIR: Yes, I see. It says "View
25 controls." Thank you. I can do that now.

1 THE REPORTER: Okay.

2 MR. NASATIR: I hope I did that right.

3 Let's see -- yes, I did. Wow.

4 MR. SHEEHAN: Do you know, which page
5 would you like us to be on?

6 MR. NASATIR: It's the last page of this
7 exhibit.

8 MR. SHEEHAN: Okay.

9 MR. NASATIR: Tell me when you're ready.

10 MR. SHEEHAN: You familiarize yourself
11 with that, and let him know when you're ready.

12 THE WITNESS: Okay.

13 BY MR. NASATIR:

14 Q Have you seen this kind of document before?

15 A I've seen this kind of document before, yes.

16 Q Are you familiar with this kind of document?

17 A No, I am not.

18 Q Okay. Well, I'm going to ask this question,
19 but maybe you may not know the answer here. There's an
20 entry line that says, "Self Insurance Neg Gain from
21 Other Activities." It's about five lines from the
22 bottom. Do you see that?

23 A Yeah, I see it.

24 Q Do you know to what that refers?

25 A No, I do not.

1 Q Okay.

2 MR. SHEEHAN: To be clear, are those --
3 those appear to be two separate lines, but your question
4 is sounding as though they one line item?

5 MR. NASATIR: I did not intend to do
6 that. I meant to -- it was probably the improper
7 question, so let me re-ask it.

8 BY MR. NASATIR:

9 Q Do you, Mr. Scholl, know -- or can you explain
10 to me what the line that says "Self Insurance Net"
11 means?

12 A No, I -- I do not know --

13 Q Okay.

14 A -- this is a financial report that has nothing
15 to do with me.

16 Q Got it.

17 MR. NASATIR: Okay. We can get rid of
18 this.

19 Oh, just for the record, I want to say
20 that page we were discussing was DOB_Gen2638.

21 All right. I'm going to suggest we take
22 a five- or ten-minute break, whatever the witness wants?
23 And then I'm going to go back to the declaration.

24 MR. SHEEHAN: Okay.

25 THE WITNESS: Okay.

1 MR. NASATIR: So what do you want -- how
2 many -- five minutes? Ten minutes? What do you want?

3 MR. SHEEHAN: Ten minutes.

4 MR. NASATIR: All right.

5 THE REPORTER: Okay. The time is now
6 12:36 Eastern, and we're off the record.

7 (Off the record.)

8 THE REPORTER: The time is now 12:48 p.m.
9 Eastern, and we're back on the record. I'll go ahead
10 and pull up Exhibit 1.

11 Okay, thank you. You may proceed.

12 MR. NASATIR: Thank you.

13 BY MR. NASATIR:

14 Q Mr. Scholl, did you discuss anything with Mr.
15 Sheehan during the break?

16 A Yes.

17 Q What did you discuss?

18 A The Buffalo Bills, and my house and a new
19 roof.

20 Q I hope that was -- I hope your house and your
21 new roof was a better discussion than the Bills, but --

22 A Unfortunately, yes.

23 Q All right, we're going to proceed. I'm going
24 to go back to your declaration. Go to paragraph 15; do
25 you see -- you say that "The diocese is still

1 responsible under the SIP to provide a defense for other
2 SIP participants." Do you see that statement?

3 A Okay.

4 MR. SHEEHAN: Could you allow him to take
5 a moment --

6 THE WITNESS: Yeah --

7 MR. SHEEHAN: -- just to read the whole
8 thing --

9 MR. NASATIR: Yeah, sure.

10 MR. SHEEHAN: (indiscernible -
11 simultaneous speech)

12 THE WITNESS: Okay.

13 BY MR. NASATIR:

14 Q What is the basis for your statement that the
15 diocese is still responsible under the SIP to provide a
16 defense for other SIP participants?

17 A Okay. Where it's stating that CVA cases are
18 against the diocese are -- are protected, state
19 against the diocese, still responsible under the SIP
20 providing a defense for other SIP participants. This
21 would be parishes, schools, other related entities; we
22 will -- we -- we provide insurance protection for all
23 the parishes and SIP participants, whether or not the
24 CVA cases are -- are state or not.

25 Q It says, "Provide a defense for the other SIP

1 participants." That's not limited to insurance advice
2 or assistance, is it?

3 A Where are you reading from? Which --

4 Q First sentence of paragraph 15.

5 A Okay. Yeah. We're -- we're still responsible
6 under the SIP to provide a defense for the other SIP
7 participants. That's an accurate statement.

8 Q What's the basis for that statement?

9 A How we run the insurance program. A claim
10 comes in, and we provide through attorneys a defense for
11 all the -- the SIP participants.

12 Q Is there a written agreement between the SIP
13 participants and the diocese to provide a defense?

14 A There --

15 MR. SHEEHAN: Objection to form.

16 You can answer.

17 THE WITNESS: Okay. There's -- there's
18 no written agreement, no.

19 BY MR. NASATIR:

20 Q Okay. Is there a directive from the bishop
21 that the diocese is to provide a defense to the SIP
22 participants?

23 A A directive from the bishop? Not -- not to my
24 knowledge. No -- I don't know.

25 Q Anything in canon law that provides authority

1 for the diocese to be providing a defense for the SIP
2 participants?

3 MR. SHEEHAN: Objection to form.

4 You can answer if you know.

5 THE WITNESS: I am not familiar with
6 canon law, so I can't comment on that.

7 BY MR. NASATIR:

8 Q Is it your understanding that the diocese has
9 a legal obligation to provide a defense for other SIP
10 participants?

11 MR. SHEEHAN: Objection to form.

12 You can answer.

13 THE WITNESS: I don't know, a -- a legal
14 obligation?

15 MR. NASATIR: Yes.

16 THE WITNESS: I can't comment on that, to
17 -- can tell you is an obligation to provide them a
18 defense. I don't know about "legal" obligation.

19 BY MR. NASATIR:

20 Q What's the basis for the obligation?

21 A The -- the basis for the obligation, in my 25
22 years there, has been that's how the program has always
23 been run, that the diocese insurance services department
24 is the -- we'll say the -- that's who parishes --
25 participants go to when they have a claim against them,

1 a lawsuit.

2 That's just always in -- in the -- certainly
3 the 25 years that I've been there, and the 50-plus years
4 now since that program was initiated in 1973, the
5 diocese insurance services office all would -- responded
6 to -- so it's just been the way it's been done.

7 Q The obligation's there because that's the way
8 it's been done?

9 A Basically, in a nutshell, yes, that is the
10 history of how it has gone over the years, yes.

11 Q When the SIP program was initiated in 1973,
12 the CVA had not been passed, had it?

13 A Correct.

14 Q And in 2018, August 2018 when the CVA passed,
15 isn't it true there was significantly more abuse
16 litigation brought against the SIP participants?

17 A I have not --

18 MR. SHEEHAN: Objection to form.

19 THE WITNESS: Okay. I -- critical, think
20 I need to correct you. You said August of '18; it was
21 August of 2019, I believe, when we'll -- we'll say that
22 -- the law passed. It became valid that the claims were
23 allowed to be filed beginning in August of 2019. I mean
24

25 MR. NASATIR: You are correct. You're

1 correct --

2 THE WITNESS: Okay.

3 MR. NASATIR: -- it was passed in 2018,
4 and it became effective in 2019.

5 THE WITNESS: Correct, yes --

6 BY MR. NASATIR:

7 Q Would you agree with me that in August 2019,
8 there was a significant increase in abuse cases brought
9 against the SIP participants?

10 A Yes.

11 Q Okay. Would you agree with me that the SIP
12 program, when it was initiated in 1973, could not have
13 contemplated the passage of the CVA?

14 A That is --

15 MR. SHEEHAN: Objection.

16 You can answer if you know.

17 THE WITNESS: Yeah. I -- that's correct.

18 BY MR. NASATIR:

19 Q So notwithstanding that this is the way things
20 have been done for 25 years, you would agree with me
21 that the CVA window has created different circumstances
22 for the SIP participants and for the diocese, correct?

23 MR. SHEEHAN: Objection to form.

24 You can answer if you know.

25 THE WITNESS: It has created different

1 circumstances, yes.

2 BY MR. NASATIR:

3 Q Does the SIP program make any distinction
4 between abuse -- strike that.

5 Does the SIP program make any distinction
6 between claims involving abuse that occurred pre-1973,
7 as opposed to abuse claims that are based on abuse post-
8 1973?

9 MR. SHEEHAN: Objection to form.

10 You can answer if you know.

11 THE WITNESS: To my knowledge, no.

12 BY MR. NASATIR:

13 Q Starting in 1973, the SIP -- by the very
14 nature, the SIP participants began contributing to the
15 SIP program's funds, right?

16 A I -- I don't know the answer in 1973 whether
17 or not that was occurring. I can only comment on my
18 knowledge since I came in 1998.

19 Q Okay. Let's take your time period. Since
20 1999, SIP participants have been contributing to the SIP
21 insurance -- the SIP fund; is that right?

22 A That is correct.

23 Q Okay. And would you agree with me, sir, that
24 prior to the creation of the SIP program, none of the
25 parishes contributed to a general insurance fund?

1 A I don't know.

2 Q Okay.

3 A I -- I have --

4 Q Have any --

5 A -- no knowledge of that.

6 Q You have no knowledge of that. Would you
7 agree with me that the SIP participants who have claims
8 for abuse occurring pre-1973 are utilizing the SIP
9 insurance program funds for defense of those claims?

10 MR. SHEEHAN: Objection to form.

11 You can answer if you know.

12 THE WITNESS: I -- can you rephrase that?

13 I'm not --

14 MR. NASATIR: Sure.

15 THE WITNESS: -- exactly sure what you're
16 asking.

17 BY MR. NASATIR:

18 Q Isn't it true, Mr. Scholl --

19 A Mm-hmm.

20 Q -- that parishes facing abuse claims stemming
21 from abuse before 1973 are getting a defense for which
22 they didn't pay?

23 MR. SHEEHAN: Objection to form.

24 You can answer if you know.

25 THE WITNESS: Getting a defense for which

1 they didn't pay.

2 MR. NASATIR: Correct.

3 THE WITNESS: Oh. The diocese is
4 assisting in all of the CVA cases pre-1973; I wouldn't
5 characterize it as getting a defense for free.

6 BY MR. NASATIR:

7 Q In the same paragraph, paragraph 15, you say,
8 "The diocese will be required to spend significant time
9 and money responding to CVA cases, both in its capacity
10 as the risk manager and insurance coordinator for the
11 SIP participants, and simply to protect the diocese's
12 own legal interests, which could be jeopardized by the
13 continued pursuit of the legal prosecution of the CVA
14 claims."

15 A Okay.

16 Q With respect to its capacity as risk manager
17 and insurance coordinator, as you stated in that
18 paragraph --

19 A Yes.

20 Q -- are those two different capacities, or are
21 they one and the same?

22 A One and the same.

23 Q Okay. And is it fair to say that in its
24 capacity as risk manager, you're talking about your role
25 in establishing the extent to which there's insurance

1 coverage for any given claim?

2 A There -- there's a lot of roles in my job
3 description, and that's one of them.

4 Q Okay, but I'm talking about CVA cases, as you
5 define them in this paragraph, and --

6 MR. SHEEHAN: Objection.

7 BY MR. NASATIR:

8 Q -- defending, and I'm trying to understand
9 what the diocese and you are going to be required to do.
10 So in that context, I'm asking you that it's the
11 capacity is risk manager and the insurance coordinator,
12 can be summarized as this -- your -- the duty to inquire
13 and find insurance coverage for the CVA cases in
14 question?

15 MR. SHEEHAN: Objection to form.

16 You can answer.

17 THE WITNESS: So I -- I don't understand
18 your question.

19 BY MR. NASATIR:

20 Q What is the diocese required to do in its
21 capacity as risk manager and insurance coordinator?

22 A For what, CVA cases?

23 Q Yes. We're talking about paragraph 15.

24 A Okay. CVA cases against just SIP participants
25 without naming the diocese?

1 Q Yes. That's what --

2 A Okay.

3 Q -- this paragraph is all about.

4 A Right. Well, in the absence of a -- a stay,
5 where wouldn't have much involvement, if -- if the stay
6 were removed or lifted, I would then have to expend a
7 significant amount of time in coordinating defense; I'd
8 have to get involved in -- in the lawsuits themselves; I
9 would have to coordinate efforts with the claim
10 personnel who work with me to -- or work under me to set
11 up claims.

12 There would be a significant amount of
13 communications back and forth with legal counsel and the
14 SIP participants themselves; there would just be a lot
15 to be done in those particular cases.

16 Q All right. Let's go through your response
17 here. As risk manager and insurance coordinator, what
18 involvement would you have in coordinating defense?
19 What role would you have?

20 A The role I would have would be to contact
21 legal counsel; that is under the -- the SIP program, the
22 participants look to us to advise and -- and -- and
23 obtain legal counsel. And then legal counsel would then
24 contact the SIP participant directly to work through the
25 facts of the case.

1 Q And wouldn't that conclude your role as risk
2 manager and insurance coordinator?

3 A No, it would not.

4 Q What else would you have to do as risk manager
5 and insurance coordinator?

6 A I would still have to work with the SIP
7 participants who are, we'll say, very unknowledgeable in
8 any matters relating to insurance; they would depend on
9 me. If there were any discussions of potential
10 settlements, mediations, I would be the person who would
11 do all of that.

12 Q Because of the insurance?

13 A Yes.

14 Q Got it.

15 A You wouldn't be involved in the discovery --
16 in the litigation of the CVA claims, would you?

17 MR. SHEEHAN: Objection to form.

18 You can answer.

19 THE WITNESS: No, I would not be involved
20 in the discovery.

21 BY MR. NASATIR:

22 Q You wouldn't be writing any briefs, would you?

23 A No.

24 Q Examining witnesses?

25 A No.

1 Q Interviewing witnesses?

2 A No.

3 Q Advising on legal strategies?

4 A No.

5 Q Let's go to paragraph 16.

6 MR. SHEEHAN: Let us know

7 (indiscernible).

8 BY MR. NASATIR:

9 Q What's the basis for your statement in that
10 paragraph that "The claims asserted against other SIP
11 participants are so closely intertwined with the claims
12 asserted against the diocese"?

13 A Well, because of, we'll say, the relationship
14 between the diocese and the parishes.

15 Q Can you be more specific about that
16 relationship that makes -- that supports the intertwined
17 nature of the claims?

18 A The relationship between the diocese and the
19 SIP participants?

20 Q Yes.

21 MR. SHEEHAN: Objection to form.

22 You can answer if you know.

23 THE WITNESS: Well, I'm just trying to
24 find a -- you know, a way to express and answer to that.
25 I mean, that the insurance coverage that become involved

1 there, they're intertwined with insurance coverage and
2 sharing limits, and -- and those types of things, so
3 they're very much intertwined with claims asserted
4 against the diocese.

5 BY MR. NASATIR:

6 Q Okay, so it's the shared insurance aspect --

7 A Right.

8 Q -- that creates this relationship that makes
9 the claims intertwines; is that right?

10 A That is -- yeah, I would say that's part of
11 it.

12 Q What's the rest of it?

13 A SIP participants are -- it -- it -- well, it's
14 -- it's all about potentially a sharing of -- of
15 liability.

16 Q But in this instance, we're talking about the
17 stay being in place for the diocese liability, but
18 continuing -- but the litigation continuing for the
19 other SIP participants.

20 A Right.

21 Q So where is there a shared liability in that
22 instance?

23 MR. SHEEHAN: Objection to the form.

24 You can answer if you know.

25 THE WITNESS: A -- we'll say shared

1 liability, it -- if cases were allowed to move forward
2 outside of, you know, the diocese, then it -- it could
3 get involved with having to pay for, we'll say, defense
4 for those particular matters; it, again, could involve
5 insurance coverage and limits available to those
6 individual SIP participants that could have an adverse
7 effect on the diocese.

8 If -- if, we'll say, certain -- if matters get
9 settled against SIP participants, there could be -- how
10 should I say -- it potentially could set a precedent
11 that could come back and be very negative for the
12 diocese moving forward through -- through bankruptcy and
13 Chapter 11.

14 BY MR. NASATIR:

15 Q Okay. So with respect to paying for defense,
16 settlements, those aspects are potentially negative in
17 your view because they could reduce the amount of shared
18 insurance available to the diocese if it has subsequent
19 liability; is that the point?

20 A Yes.

21 Q Okay. And then, you raise the concern about
22 negative precedents. So --

23 A Yup.

24 Q -- is that what you are referring to when you
25 -- in paragraph 16 you say, "The diocese may be exposed

1 to collateral estoppel, adverse precedent, vicarious
2 liability, or imputed admissions if the litigation
3 continues"?

4 A Well, again, I -- I'm no lawyer, so yes, those
5 are all basically legal terms; but yeah, in -- in -- in
6 common terms, yes. That's -- it -- it could have result
7 -- it could've result in awards that would deplete
8 insurance coverage, and it could be denials by insurance
9 carriers that could then be used as a precedent in the
10 negotiations of the Chapter 11 case. It could deplete
11 the amount that carriers would be able to pay through
12 Chapter 11, and potentially reduce the amount of
13 contribution to a settlement fund in Chapter 11.

14 Q Okay. Those are -- with the exception of the
15 denial of coverage, those are all relating to the amount
16 of insurance that's available because it's shared and
17 the diocese may not have enough insurance to satisfy its
18 obligations, right?

19 MR. SHEEHAN: Objection to form.

20 You can answer.

21 THE WITNESS: That's a possibility.

22 BY MR. NASATIR:

23 Q Okay. So with respect to the denial of
24 coverage precedent, right now, there is no active
25 coverage actions going forward, are there?

1 A Active coverage actions?

2 Q Yes. They --

3 MR. SHEEHAN: Objection to form.

4 You can answer if you know.

5 THE WITNESS: I -- I'm -- I don't know
6 how to answer that.

7 BY MR. NASATIR:

8 Q Okay. You're the director for insurance
9 services for the Diocese of Buffalo. Are you aware --

10 A Right.

11 Q -- of any coverage litigation that's ongoing
12 regarding the insurance policies that are issued to the
13 diocese and the other SIP participants?

14 A Yeah, non-CVA stuff, yes.

15 Q Is that litigation against the diocese?

16 A Many times, it's -- it's the diocese and the
17 SIP participant.

18 Q So what "non-CVA stuff" are you talking about?

19 A I --

20 MR. SULLIVAN: I'm going to object to --
21 Iâ€™m going to object to the form. Are you talking about
22 litigation in the bankruptcy case?

23 MR. NASATIR: No, I'm talking -- what I'm
24 trying to understand from Mr. Scholl is whether there is
25 any active coverage litigation over insurance available

1 to the SIP participants for abuse claims.

2 MR. SHEEHAN: Insurance litigation at --
3 no.

4 MR. NASATIR: Okay.

5 BY MR. NASATIR:

6 Q So there's not going to be a denial of
7 coverage creating a negative precedent, because there's
8 no ongoing coverage litigation with respect to the CVA
9 claims; isn't that right?

10 MR. SULLIVAN: Object to the form again.

11 MR. SHEEHAN: You can answer.

12 THE WITNESS: I -- I -- now you're --
13 you're totally confusing me. I have no idea -- you're
14 going from one thing to another. Please clarify what
15 you're asking.

16 BY MR. NASATIR:

17 Q Sure. You said, a few minutes ago, that one
18 of the concerns you had was that there could be denials
19 by insurance companies that could then be used as
20 precedent in the negotiation of the Chapter 11 case. Do
21 you recall that testimony?

22 A Yes, I do.

23 Q Okay. And I'm asking you if there's any
24 ongoing coverage litigation that would lead to such
25 denials of coverage.

1 MR. SHEEHAN: Objection to form.

2 You can answer.

3 THE WITNESS: No, because these cases are
4 stayed right now; so no, there's no -- not -- no.

5 BY MR. NASATIR:

6 Q Okay. And if the CVA cases involving the
7 other SIP participants were to go forward, are you aware
8 of any active coverage litigation involving those cases?

9 MR. SHEEHAN: Objection to the form.

10 You can answer if you know.

11 THE WITNESS: That makes no sense to me.
12 If they -- If they move forward, then litigation will
13 continue, and then potential insurance involvement is
14 there.

15 BY MR. NASATIR:

16 Q Is it your -- in your experience, when an
17 abuse claim is being brought against a SIP participant,
18 are coverage issues litigated in that abuse litigation?

19 MR. SHEEHAN: Objection to form.

20 You can answer.

21 THE WITNESS: Insurance coverage issues?

22 MR. NASATIR: Yes.

23 THE WITNESS: No.

24 BY MR. NASATIR:

25 Q They're litigated in a separate forum, aren't

1 they?

2 MR. SHEEHAN: Objection to form --

3 THE WITNESS: Please explain. What
4 different forum are you talking about?

5 MR. NASATIR: Yeah, I think there has to
6 be a separate coverage action to determine any coverage
7 issues, separate and apart from the abuse litigation.

8 THE WITNESS: Again, I -- I don't know
9 what you're asking. I -- I'd like a question.

10 BY MR. NASATIR:

11 Q All right. I'm going to just move on to the
12 next part of your declaration.

13 You said you're not a lawyer, right?

14 A Yes.

15 Q Okay. How often do you use the phrase
16 "collateral estoppel"?

17 MR. SHEEHAN: Objection.

18 You can answer.

19 THE WITNESS: Pretty much never.

20 BY MR. NASATIR:

21 Q Do you know what it is?

22 A Not exactly; no, I do not.

23 Q Okay. Do you know the rules that govern the
24 concept of collateral estoppel?

25 A No, I do not.

1 Q Okay. Can you tell me what "vicarious
2 liability" is?

3 A Yeah, it's -- well, vicarious liability is --
4 I don't know how to -- how to define it, no. Through --
5 through your -- through certain actions, you're held
6 vicariously liable.

7 Q In the context of abuse litigation, do you
8 understand vicarious liability to mean that the diocese
9 would be vicariously liable for the parish's actions?

10 A Yes, potentially.

11 Q Okay. Do you have any understanding whether
12 under New York law that theory of vicarious liability is
13 valid?

14 MR. SHEEHAN: Objection --

15 THE WITNESS: I --

16 MR. SHEEHAN: -- legal conclusion --

17 THE WITNESS: Yeah.

18 MR. SHEEHAN: -- you can answer if you
19 know.

20 THE WITNESS: No, I -- I -- I'm not going
21 to answer that; I don't know.

22 BY MR. NASATIR:

23 Q Okay. That's all I'm asking, is if you know.

24 When you say, "The diocese may be exposed to
25 imputed admissions," what do you mean?

1 A "Imputed admissions" --

2 Q Yeah.

3 A -- again, I don't know how to answer that.

4 Q Okay. Can you give me an example of an
5 imputed admission?

6 MR. SHEEHAN: Objection to form.

7 You can answer if you know.

8 THE WITNESS: I don't know.

9 BY MR. NASATIR:

10 Q Okay. I skipped over "adverse precedent."
11 What did you mean when you said, "The diocese may be
12 exposed to adverse precedent"?

13 A Through a continuation of a CVA action against
14 a SIP participant, as I stated before, would create an
15 adverse precedent, whether or not it is sharing of
16 limits, insurance company denials of coverage in a
17 particular case, that could definitely adversely affect
18 potential involvement by insurance carriers in the
19 Chapter 11 action.

20 Q Okay. So your reference to adverse precedent
21 is in the context of insurance coverage; is that fair?

22 A That's fair.

23 Q Okay. To your knowledge, has the diocese ever
24 been found liable as a result of a state court judgment
25 against one of its parishes where the diocese was not a

1 party?

2 A Are you talking about CVA?

3 Q Yes.

4 A Prior to -- okay, prior to the enactment of
5 the -- of the CVA regulation? The law?

6 Q I'm asking you, in your experience, and to
7 your knowledge, has the diocese ever been found liable
8 as a result of a state court judgment against one of its
9 parishes where it wasn't a defendant in that case?

10 MR. SHEEHAN: Objection to form.

11 You can answer if you know.

12 THE WITNESS: Has the diocese been found
13 liable? I -- I don't -- no, I don't know. I -- in my
14 experience, I -- I cannot recollect anything like that.

15 BY MR. NASATIR:

16 Q Okay. Now it -- the end of your paragraph,
17 you said, "In these circumstances, the diocese will have
18 no choice but to participate in CVA cases, thus
19 diverting significant resources from the pursuit of a
20 plan of reorganization, invitiating the efficacy of the
21 automatic stay." Do you see that?

22 A No.

23 Q Would you agree with me that if the concerns
24 that you raise in the paragraph -- in the sentence
25 before this sentence, are not valid, there would be no

1 need to divert "significant resources"?

2 A No.

3 MR. SHEEHAN: Objection. Calls for
4 speculation.

5 You can answer.

6 THE WITNESS: Yeah. I -- that -- that's
7 speculation -- no, I -- I -- no. I disagree.

8 BY MR. NASATIR:

9 Q Okay. Do you have any role, sir, in the
10 restructuring efforts of the diocese?

11 A Not directly, no.

12 Q Okay. I guess I -- it's maybe a little bit of
13 an unfair question.

14 Are you involved in aspects of insurance
15 coverage insofar as it impacts your organization of the
16 diocese?

17 A Yes.

18 Q Okay. Are you involved in any other role
19 regarding any structuring of the diocese?

20 A No.

21 Q Excuse me, I misspoke; reorganization.

22 A The reorganization? No, I am not directly
23 involved in that.

24 Q Are you involved indirectly in anything other
25 than the insurance?

1 A Indirectly, yes. I --

2 Q What do you mean?

3 A I am team leader of a team that is involved in
4 the -- the major initiative to create a families of
5 parishes, and reorganizing the diocese into families
6 versus just individual parishes.

7 And I am on a committee and a team that has
8 input into a lot of, you know, not even just insurance
9 aspects, but just other aspects to help the parishes
10 create a -- a good working environment.

11 Q And this is with a view to subsequent
12 reorganization by the diocese?

13 A Yes.

14 Q Okay. How much time on a monthly basis are
15 you spending on tasks that are related to the
16 reorganization of the diocese?

17 A Non-insurance related?

18 Q Not insurance related.

19 A In a month, probably maybe -- I'd say maybe
20 the equivalent of a -- a whole day; eight hours.

21 Q Okay. And how much time do you spend on
22 insurance-related matters as they are related to the
23 reorganization of the diocese in a month?

24 A In a month. I'd put a guess on that; I would
25 say -- say maybe -- maybe 25 hours a month? Somewhere

1 in that area?

2 Q Okay. Do you think any of the tasks that you
3 are undertaking that are related to the reorganization
4 of the diocese can be handled by other professionals?

5 A When it comes to insurance, no.

6 Q What about restructuring the parishes into
7 families?

8 A Well, is there a question there?

9 Q Yes. Could that be done by other
10 professionals?

11 A Yes.

12 Q Okay.

13 A I -- I'm not sure, what do you mean "by other
14 professionals"? Outside the diocese?

15 Q Yes, or inside the diocese.

16 A It is being handled by other experts in the
17 diocese.

18 Q Okay. Do you have any role in non-abuse
19 claims?

20 MR. SHEEHAN: Form. Answer.

21 THE WITNESS: Yes, if you elaborate.

22 BY MR. NASATIR:

23 Q Well, like slip-and-falls, for example?

24 A Yes.

25 Q What's your role there?

1 A It is, again, having it -- a claim reported to
2 our department, logged in as a claim; it is reviewed by
3 the diocese claim unit nerve and myself. And we set up
4 a claim, and if it -- each case, obviously, is
5 different.

6 We contact the parish. I, along with the
7 claim manager, will do some claim investigation, we will
8 make contact with the people that get hurt.

9 We don't assign any counsel unless it becomes
10 a litigated issue. In those instances, we work with
11 both the SIP participant and the injured party to come
12 to an agreeable settlement of the claim, depending on
13 the circumstances.

14 Q Okay. So your role for abuse and non-abuse
15 cases is not that different, as I understand it.

16 A Correct. It's not that different.

17 Q Okay. Would you agree with me that the time
18 you spend on abuse cases far outweighs the time you
19 spend on non-abuse cases?

20 A Currently?

21 MR. SHEEHAN: Objection to form.

22 You can answer.

23 THE WITNESS: I didn't -- are you talking
24 about currently, without -- with the stay in place?

25 MR. NASATIR: No, we'll say before the

1 bankruptcy. Thank you for making me focus on the time
2 frame --

3 THE WITNESS: Okay. Before -- before the
4 bankruptcy, yeah, I would say spent more time -- well,
5 exactly what are you asking, more time on those
6 particular cases?

7 MR. NASATIR: Okay. I'm going to move to
8 paragraph 18.

9 MR. SHEEHAN: Let us know when you're
10 finished.

11 THE WITNESS: Okay.

12 MR. NASATIR: Yes. Let me know when
13 you've read paragraph 18.

14 THE WITNESS: Okay, I'm done reading it.
15 BY MR. NASATIR:

16 Q Okay. Would you agree with me that the first
17 sentence needs to be updated in terms of who's likely to
18 be distracted if the CVA cases continue?

19 A Yes. Obviously, Bishop Scharfenberger would
20 be changed. Charles Mendolara would be changed.

21 Q Okay. Have you spoken to Bishop Fisher
22 regarding his role in administering the state court
23 actions to which the diocese is not a party if the stay
24 is lifted?

25 A No, I have not spoken with Bishop Fisher

1 directly.

2 Q Have you spoken to someone who's spoken to
3 Bishop Fisher about his role in administering the state
4 court actions to which the diocese is not a party if the
5 stay is lifted?

6 MR. SHEEHAN: Objection to form.

7 You can answer.

8 THE WITNESS: Yeah. That -- that's
9 speculating. I -- I don't know if someone I've talked
10 to has talked to Bishop Fisher about the -- I'm not
11 aware of it --

12 MR. NASATIR: Have --

13 THE WITNESS: -- has happened, I'm not
14 aware.

15 BY MR. NASATIR:

16 Q Fair enough. Have you spoken to Bishop Fisher
17 about insurance coverage for the CVS cases?

18 A No, I have not.

19 Q Okay. Is it your understanding that if the
20 state court actions to which the diocese is not a party
21 are allowed to proceed, that diocese personnel would be
22 deposed?

23 MR. SHEEHAN: Objection to form.

24 You can answer.

25 THE WITNESS: Would -- that they'll be

1 deposed?

2 MR. NASATIR: Yeah.

3 THE WITNESS: I don't know that.

4 BY MR. NASATIR:

5 Q Okay. Do you know if any diocese personnel
6 would likely to be witnesses?

7 A Witnesses in what respect? To the CVA cases?

8 Q Yes. To which the diocese is not a party.

9 A I -- I'm unaware of any that would be.

10 Q Okay. Do you know if any of those cases have
11 been set for trial?

12 A No. Not that I --

13 Q No --

14 A -- know of.

15 Q -- you -- no, you don't know; or no, they
16 haven't?

17 A Set for trial? CVA cases?

18 Q Yeah.

19 A Against -- against non-diocese entities?

20 Q Yes.

21 A I am not aware of any that have been set for
22 trial. To my knowledge, no.

23 Q Okay. I'm going to go to your -- the next
24 sentence here. "It is the hope -- the diocese's hope
25 and expectation that a consensual plan of reorganization

1 can be formulated." Do you see that?

2 A Yes. Okay?

3 Q Thank you. When did you make that statement?

4 A When did I make that statement? It was
5 obviously part of my declaration. So I made it back in
6 2020.

7 Q Okay. So sitting here in November of 2023,
8 you would agree with me that that hope and expectation
9 has not materialized, has it?

10 MR. SHEEHAN: Objection to form.

11 THE WITNESS: Hope and expectation has
12 not materialized? That's --

13 BY MR. NASATIR:

14 Q That's my question.

15 A I would say that there's still hope that it
16 will move forward, and -- I mean, I -- I still have an
17 expectation and hope that a consensual plan will be
18 formulated.

19 Q Okay. Are there any particular CVA actions
20 against SIP -- other SIP participants only, in other
21 words, not the Diocese, that you believe will threaten
22 the Diocese reorganization if they proceed?

23 MR. SHEEHAN: Objection to form. You can
24 answer.

25 THE WITNESS: I -- on a specific case

1 basis, no, I am not aware of any specific case that
2 would do that.

3 BY MR. NASATIR:

4 Q Okay. I am -- we are now going back to other
5 portions of your declaration, so if you were hoping we
6 were done, I'm apologizing, you are not. But I'm just
7 telling you that so you know where we're going.

8 A Okay.

9 MR. SHEEHAN: Do -- can I ask, do you
10 plan to take a lunch break? Do you have -- do you know
11 how much question you have left?

12 MR. NASATIR: If you want -- I would
13 prefer to take a short break. If -- it can be longer,
14 it can be, you know, as much as half an hour. But I
15 don't really need -- I don't really need or want a 45 or
16 an hour break for lunch. And I would say that I don't
17 have -- I'm clearly a third of the way -- sorry, halfway
18 through. I may be as close to a third of the way
19 through my outline. Of course, that doesn't mean that
20 the witness's answers are, you know, commensurate with
21 my outline. But that's where we stand if you're
22 thinking about how much longer we have.

23 So how would you like to proceed, Mr.
24 Scholl?

25 MR. SHEEHAN: I think the witness would

1 like at least a half an hour. Think -- would 30 minutes
2 be sufficient?

3 THE WITNESS: Thirty is fine.

4 MR. SHEEHAN: It's sufficient on our end.

5 MR. NASATIR: So would -- I'm sorry, I'm
6 not on your time zone. So you're looking at -- it's --
7 you're looking at 1:30 -- it's 1:35 now; is that right?

8 MR. SHEEHAN: 1:38 here, that's right.

9 MR. NASATIR: 1:38.

10 THE WITNESS: Yeah.

11 MR. NASATIR: Okay. Yeah, that's right,
12 the computer tells me these things. Okay. So you want
13 -- you want to get back in half an hour?

14 THE WITNESS: Yes.

15 MR. NASATIR: Is that your preference?

16 THE WITNESS: Yes, my preference.

17 MR. SULLIVAN: And Ian, this is Charlie.

18 So, I'm just curious, you said you are halfway through
19 your outline or a third of the way through your outline?

20 MR. NASATIR: No, I -- I'm sorry, I said
21 I'm at least halfway through. And I may have as much as
22 only a third left.

23 MR. SULLIVAN: Understood. Thank you.

24 MR. NASATIR: Okay. That's fine. Is
25 that all right with you, Mr. Reporter?

1 THE REPORTER: Yes, that's fine.

2 MR. NASATIR: Okay. Why don't we get
3 back on at -- in half an hour, whatever that is.

4 MR. SHEEHAN: Okay. Thank you. About
5 2:10. Okay.

6 MR. NASATIR: Okay. Thank you.

7 THE REPORTER: The time is now 1:38 p.m.
8 Eastern and we're off the record.

9 (Off the record.)

10 THE REPORTER: The time is now 2:10 p.m.
11 Eastern and we're back on the record. You may proceed.

12 MR. NASATIR: Thank you.

13 BY MR. NASATIR:

14 Q Mr. Scholl, did you discuss your deposition,
15 the -- deposition testimony with anyone during the
16 break?

17 A No.

18 Q Thank you. Going to go to paragraph 11 of
19 your declaration. Take a moment, please, to read
20 paragraph 11. Let me know when you're done.

21 A Okay.

22 Q Okay. Let's start with the first sentence.

23 "Prior to the implementation of the SIP in 1973, each of
24 the SIP participants were responsible for securing their
25 own liability insurance coverage." See that?

1 A Yeah.

2 Q Technically, before 1973, there actually
3 wasn't a SIP, right?

4 A Correct.

5 Q So there couldn't be SIP participants prior to
6 1973?

7 A Correct.

8 Q So what you're really talking about are non-
9 diocesan entities that were responsible for securing
10 their own liability insurance coverage, right?

11 A Well, they were diocesan entities. They
12 weren't non-diocesan entities. They were diocesan
13 parishes and -- and schools. And who were responsible
14 for obtaining their own liability insurance coverage.

15 Q Thank you for that clarification. I misspoke.
16 So, skipping down to power -- to the sentence beginning,
17 "On or about March 10, 2020, the Diocese located in its
18 archives a number of records which identify in
19 reasonable detail secondary proof of pre-1973 policies
20 that provide liability coverage to various
21 participants." Do you see that?

22 A Yes.

23 Q Okay. What is secondary evidence?

24 A Secondary evidence would be evidence of
25 insurance without having the actual policy, with all the

1 coverage terms, conditions. It would -- it could mean
2 many things, such as certificates of insurance. It
3 could reference the insurance company that insured a
4 particular parish in a particular year. There could be
5 a policy number that would be contained in that
6 information. There could be names of insurance agents.
7 It could be written communications that referenced
8 insurance coverage. Anything like that.

9 Q Okay. And that was -- that material was
10 located in 2020 of March approximately, right?

11 A Yes.

12 Q And was there any subsequent search done for
13 the pre-1973 policies?

14 A Yeah, there were many searches done at
15 different times.

16 Q Okay. Has there -- has there been a search
17 done in 2023?

18 A Yes.

19 Q When was it done?

20 A I -- I myself went back down to our basement
21 area and -- still in search of some potential boxes or
22 documents that might contain some information. I did
23 not locate anything. There was also communication sent
24 out to all parishes again in 2023, asking them again to
25 please look through all of their archives and places

1 where they might store old records and search again.

2 Q Who's -- is that -- first of all, is that
3 search ongoing?

4 A Yes.

5 Q Who's coordinating it?

6 A The search is coordinated, we'll say jointly,
7 between myself and the chief operating officer of the
8 Diocese, Richard Suchan.

9 Q Is it your understanding that the parishes
10 have an obligation to come back to you or the CFO with
11 some indication of their compliance with the search?

12 A Yes.

13 Q Okay.

14 A And they do.

15 Q With -- in terms of progress, where -- how far
16 along are you in getting responses from all the parishes
17 to whom you reached out?

18 A We -- over, we'll say, the three years, we
19 have received responses probably from every single
20 parish, at least in one form or another.

21 Q With respect to the 2023 search, in which the
22 parishes have an obligation to provide some proof of
23 their compliance with the search, how far along are you
24 with having all the parishes return such compliance
25 proof?

1 A I don't know the answer to that because I am
2 not the one that has personally received the record of
3 compliance or not compliance. So I -- I can't answer
4 that because I don't know.

5 Q Okay. Do you know if any of the searches, the
6 2023 and the prior searches, reached out to schools or
7 camps or other diocesan entities?

8 MR. SHEEHAN: Objection. This line of
9 questioning is going beyond the subject matter that's
10 relevant to the pending motion.

11 MR. NASATIR: No, it's not. It's
12 relevant to whether there's shared insurance, which is a
13 foundation upon which Mr. Scholl is resting his
14 declaration.

15 MR. SHEEHAN: You can answer the
16 question.

17 THE WITNESS: Okay. Would you repeat
18 that, please?

19 BY MR. NASATIR:

20 Q Sure. Do you know if any of the searches, the
21 2023 and the prior searches, included schools or camps
22 or other diocesan entities besides parishes?

23 A Yes.

24 Q Okay. Do you know if that's still an ongoing
25 process?

1 A Yes, it is.

2 Q Okay. Now, I believe you testified earlier
3 that you were unable to locate any actual policies of --
4 that were issued pre-1973; is that right?

5 A That's right.

6 Q Did you locate any declaration pages standing
7 alone?

8 A Dec pages?

9 Q Dec pages, yes.

10 A Yeah, dec pages. No.

11 Q Okay. Does a declaration page describe who
12 the named insured is?

13 A Yes.

14 Q Does it also describe other insureds under the
15 policy?

16 A Not necessarily, no.

17 Q It can be found in endorsements?

18 A Yes.

19 Q Okay.

20 A Additional insured endorsements.

21 Q Did you find any additional insured
22 endorsements?

23 MR. SHEEHAN: Objection to form. You can
24 answer.

25 THE WITNESS: Not to my knowledge.

1 BY MR. NASATIR:

2 Q Okay. You say in your declaration in
3 paragraph 11 that, "Upon information and belief, copies
4 of the relevant policies are in the possession of the
5 respective carriers." Have you -- what's the basis for
6 that statement on information and belief?

7 A Say that -- which -- which line is that?

8 Q It is the sentence -- it's starting at the
9 bottom of page 4 and carrying over to page 5.

10 A Okay. "Upon information and belief." Okay.
11 "Copies in a" -- okay. "Are in the possession of their
12 respective carriers." Okay.

13 Q What's the basis for that statement?

14 A The basis for that statement is that insurance
15 companies retain old policies. I work for three
16 insurance companies and, you know, the -- the companies
17 do retain, at least at some level, copies of insurance
18 policies, or should be.

19 Q Okay. Have any of the carriers who provide
20 pre-1973 insurance to diocesan entities confirmed that
21 they have the copies of these policies in their
22 possession?

23 A Okay. I cannot answer that. That is out of
24 my direct area of responsibility. That is all directed
25 to Blank Rome.

1 Q Okay. So when you say, "Upon information and
2 belief, copies of the relevant policies are in the
3 possession of the respective carriers," your basis for
4 saying that is your prior experience with other
5 insurance companies?

6 A Correct. Insureds --

7 Q Okay.

8 A -- often don't keep their policies, but
9 insurance companies do keep records of insurance
10 policies that they issue.

11 Q But in this case, you have no specific
12 evidence of that being the case here?

13 MR. SHEEHAN: Objection. You can answer.

14 THE WITNESS: No, that's correct.

15 BY MR. NASATIR:

16 Q Okay. Do you know if the carriers have been
17 asked to produce copies of the policies?

18 A Yes, they have been asked.

19 Q But they have not done so?

20 A That would be a question for Blank Rome. I
21 don't know the answer to that.

22 Q Okay. Now, let's see. Give me a second here.
23 All right. Let's focus on the last sentence in your
24 declaration, paragraph 11.

25 A Okay. Yes. Okay.

1 Q Okay. Now, because you've not seen a pre-'73
2 policy, you'll agree with me, you've never seen the
3 Diocese as named as an insured under any of these
4 policies, right?

5 A Yeah, I have not physically seen it, correct.

6 Q Okay. Okay. But your conclusion is that each
7 of the SIP participants maintained liability insurance
8 policies and that each of these policies would have
9 included the Diocese as an additional named insured,
10 right?

11 A Yes.

12 Q Okay. And you based that on your review of
13 available records. What records supported the view that
14 the policies would have included the Diocese as an
15 additional named insured?

16 MR. SHEEHAN: Objection to form. You can
17 answer.

18 THE WITNESS: What records are you
19 referring to?

20 BY MR. NASATIR:

21 Q Well, that's what I'm asking you. In your --
22 in your declaration under oath, you said, "Based on my
23 review" --

24 A Right.

25 Q -- "of the available records." What records

1 are you referring to?

2 A Well, specific written records -- no, it would
3 have been -- for pre-'73 -- that was really a -- a
4 statement of my experience in the insurance business,
5 and says, "Based on" -- yeah, "my knowledge of the
6 relationship between the Diocese and other SIP
7 participants and my experience in the industry." It --
8 to me, it was a -- a conclusion that the Diocese would
9 have been named as additional insureds, very similar to
10 corporation insurance that have subsidiaries. The
11 insurance of the subsidiary would name the parent
12 corporation as additional insured. The Diocese is
13 basically like the home office or, you know, the entity
14 in Western New York, and the parishes are basically like
15 subsidiaries of the Diocese and would have named -- in
16 my opinion, would have named the Diocese as an
17 additional name insured on those liability policies.

18 MR. NASATIR: Move to strike as non-
19 responsive.

20 BY MR. NASATIR:

21 Q What additional document -- what additional
22 records -- strike that.

23 What available records are you relying on for
24 the conclusion that each of the policies would have
25 included the Diocese as a named additional -- as an

1 additional named insured?

2 MR. SHEEHAN: Objection to form. You can
3 answer.

4 THE WITNESS: No specific records.

5 BY MR. NASATIR:

6 Q Okay. Let's move to the next sentence, your
7 "knowledge of the relationship between the Diocese and
8 the other SIP participants."

9 A Yes.

10 Q How old were you in 1973?

11 A In '73?

12 Q Yeah.

13 A I was 19.

14 Q Okay. Did you have any understanding of the
15 relationship between the Diocese and its parishes before
16 1973?

17 MR. SHEEHAN: Objection to the form. Are
18 you asking at the time he signed this declaration, or
19 actually 1973?

20 THE WITNESS: Yeah, if you're ask --

21 BY MR. NASATIR:

22 Q I'm asking you --

23 A In --

24 Q -- in 1973, were you a percipient witness to
25 the relationship between the Diocese and the other --

1 and the parishes?

2 A No, I was not directly involved in that.

3 Q So what is your knowledge based upon, in terms
4 of the relationship between the Diocese and the other
5 SIP participants?

6 A Okay. My knowledge of the relationship is
7 based on -- between the Diocese and other SIP
8 participants? Other than that I've been working at the
9 Diocese for 25 years, so I've come to understand and
10 know a lot of how the relationship worked in 19 -- in
11 the 1970s and even '60s and '80s, '90s, before I came on
12 board there. So it'd be based on knowledge I've gained
13 in the 25 years that I've worked there.

14 Q Give me specifics.

15 A There are no specifics.

16 Q Okay. Let me ask you about your experience in
17 the insurance and risk management industry.

18 A Okay.

19 Q That means facts and experience is not coming
20 out of this -- the relationship between the Diocese of
21 Buffalo and its parishes, right?

22 A That is correct.

23 Q Okay. You're making your assumption about who
24 is insured here based upon other cases or other matters,
25 right?

1 A That is correct.

2 Q You've not been qualified as an expert in the
3 area of insurance interpretation or insurance
4 archaeology, have you?

5 A No, I have not.

6 Q What experiences are you relying upon to
7 conclude that these policies would have included the
8 Diocese as an additional named insured?

9 A Basically, I had 20 years of commercial
10 underwriting experience, and as a commercial insurance
11 underwriter, you know all about relationships of
12 insureds' contractual liability, insureds' additional
13 insurance. And I handled many, many, many commercial
14 insurance policies involving parent and subsidiary
15 corporations, where additional insureds status was
16 granted to parent corporations, affiliated entities.
17 That was -- that's just a very common practice to do,
18 especially when two entities are as related to each
19 other as a parish and the Diocese. In -- in my opinion,
20 they absolutely would have been named as an additional
21 insured under the parish policies.

22 Q In your -- the many, many commercial policies
23 that you were involved with, did any of them -- were any
24 of them issued to a religious institution?

25 A Yeah, as a matter of fact, when I was first

1 hired at my first job in 1978, I actually trained on the
2 Diocese of Buffalo liability insurance policy for the
3 Diocese of Buffalo.

4 Q Right. But that was a pre-1973 policy,
5 correct?

6 A No. No, no, that was in 1978, when the
7 company I worked for was the insurance carrier for the
8 Diocese.

9 Q I'm sorry, I misspoke. I meant that was a
10 post-'73 policy, right?

11 A Yes, it was.

12 Q Okay. And by then, the SIP program was in
13 place, correct?

14 A Correct.

15 Q Okay. So there was a preexisting structure
16 where the Diocese was the named insured, right?

17 MR. SHEEHAN: Objection to form. You can
18 answer.

19 THE WITNESS: Were you talking about
20 post-'73?

21 BY MR. NASATIR:

22 Q Yes.

23 A Yes, there -- there was a structure where the
24 -- the Diocese had in- -- a liability insurance policy.

25 Q And would you agree with me that where the

1 individual parish pre-'73 was seeking insurance, it
2 would have been the named insured?.

3 A Under the Diocese policy, the parishes pre-
4 '73?

5 Q Yes.

6 A Okay. No, that -- they would not be -- the
7 parishes would not be named insureds on the Diocese --
8 well, I take that back. I -- I would think that they
9 would have been part of the name insured. As --

10 Q And as the -- strike --

11 A And --

12 Q As the --

13 A That they would be -- would have been named as
14 insured as under -- very similar to the way the policies
15 read now, which is the Diocese of Buffalo, its
16 affiliated entities and civil corporations, parishes,
17 that kind of thing.

18 Q Yeah, but that's different, Mr. Scholl,
19 because in the pre-'73 policies, the individual parish
20 would have been the named insured. And if your --

21 A Correct.

22 Q -- opinion is correct, the Diocese might have
23 been named as an additional named insured. But --

24 A Right.

25 Q -- in this post-'73 policies, it is going to

1 be the Diocese that's the named insured. And the
2 definition of named insured will include the parishes
3 and other Diocese entities; isn't that right?

4 MR. SHEEHAN: Object --

5 THE WITNESS: Right.

6 MR. SHEEHAN: -- to the form of the
7 question.

8 BY MR. NASATIR:

9 Q So it's different, right, pre-'73 and post-'73
10 in the structure?

11 MR. SHEEHAN: Objection to form. You can
12 answer.

13 THE WITNESS: The structure of the
14 insurance coverage is -- well, I can't -- well, I would
15 say post-'73 it was different because of the joint
16 program.

17 BY MR. NASATIR:

18 Q Okay. Let me ask you this. You would agree
19 with me that if the Diocese was not an additional named
20 insured on a post-1973 policy, all the concerns that you
21 have about shared insurance would not be relevant, fair?

22 MR. SHEEHAN: Objection to form.

23 THE WITNESS: Will you rephrase that? I
24 say no.

25 MR. NASATIR: Okay.

1 THE WITNESS: I -- I'm not sure what
2 you're looking for.

3 BY MR. NASATIR:

4 Q I'm looking for you to agree with me that if
5 there isn't shared insurance, then the concerns you have
6 relating to shared insurance are irrelevant.

7 A There is shared insurance.

8 MR. SHEEHAN: Objection to form. To the
9 extent you're characterizing his prior testimony. I
10 don't believe that's an accurate characterization. You
11 can answer.

12 MR. NASATIR: That's all right. I'll
13 move on.

14 BY MR. NASATIR:

15 Q This is a fun question for you, Mr. Scholl.
16 What do the following insurance companies all have in
17 common: Arrowood, American Centennial, Bedivere,
18 Midland, Lumbermens, Great Atlantic, Proprietors,
19 Mission?

20 MR. SHEEHAN: Objection to form. You can
21 answer, if you know.

22 THE WITNESS: What do they all have in
23 common?

24 MR. NASATIR: Yep.

25 THE WITNESS: I would say those that

1 probably -- if I -- I don't know the answer to that, but
2 I believe they all --

3 MR. SHEEHAN: Don't speculate.

4 THE WITNESS: Okay. I'm not going to
5 speculate.

6 BY MR. NASATIR:

7 Q All right. So you have no -- would you -- one
8 more time. Do you know if any of them are insolvent?

9 A Yes.

10 Q Do you know if Midland is insolvent?

11 A I don't know that.

12 Q Which ones do you know are insolvent?

13 A Proprietors and Mission.

14 Q Okay. Do you know when Mission was put into
15 liquidation?

16 A No, I do not.

17 Q I do. I worked on it. It was 1985. Do you
18 know if the Mission estate liquidation phase has been
19 closed?

20 A No, I do not know that.

21 Q Okay. Would you agree with me that to the
22 extent any parish was insured by an insolvent insurer,
23 there are no shared insurance concerns?

24 MR. SHEEHAN: Objection. Calls for
25 speculation. You can answer.

1 THE WITNESS: Yeah, that -- that would --
2 that would be speculating. I -- I can't answer that.

3 BY MR. NASATIR:

4 Q Well, let's bring it into the specifics.
5 Proprietors is an insurer of the Diocese, is it not,
6 sir?

7 A Proprietors is or was?

8 Q Was.

9 A Yes.

10 Q And there's no insurance to be gotten from
11 Proprietors because it's insolvent, right?

12 A Correct.

13 Q So there can be no concerns about negative
14 precedent on coverage issues relating to Proprietors,
15 right?

16 MR. SHEEHAN: Objection. Calls for legal
17 conclusion. You can answer, if you know.

18 THE WITNESS: Say that again, please.

19 MR. NASATIR: Would you read that back,
20 please?

21 THE REPORTER: Yes, just give me a
22 second.

23 (Readback as requested.)

24 THE WITNESS: So --

25 MR. SHEEHAN: Same objection. If you

1 can, answer.

2 THE WITNESS: Yeah, that's right.

3 BY MR. NASATIR:

4 Q Okay. And that would be true of any other
5 insolvent carrier who issued insurance to the Diocese or
6 to a parish, right?

7 MR. SHEEHAN: Objection. Form. You can
8 answer.

9 THE WITNESS: I -- no, I can't answer
10 that. I -- I don't know the answer to that one.

11 BY MR. NASATIR:

12 Q Let's go to paragraph 16. Did you read the
13 one sentence that paragraph 6 constitutes?

14 A Yes.

15 Q Okay. Does SIP use third-party insurance
16 brokers for sexual abuse claims?

17 MR. SHEEHAN: Objection to form. You can
18 answer.

19 THE WITNESS: Anytime on sexual abuse
20 coverage or claims?

21 BY MR. NASATIR:

22 Q I'm talking about claims.

23 A Okay. Okay. Because the paragraph talks
24 about purchasing appropriate excess insurance, not --

25 Q Okay.

1 A -- claims.

2 Q Let me ask you then -- let me switch that
3 around then, fair enough, and ask you, does SIP use
4 third-party insurance brokers to procure coverage for
5 sexual abuse claims?

6 A Yes -- wait, no. Coverage for sexual abuse
7 claims? Okay. Sexual abuse coverage. Yes. Yes, and I
8 do use a third-party broker to procure insurance for
9 sexual abuse coverage.

10 Q Are they paid a commission?

11 A They are paid a fee.

12 Q Does the fee come out of SIP funds?

13 A Yes, it does.

14 Q Okay. Let's move to paragraph 7. Before we
15 go there, let me go back to my question I meant to ask
16 first -- or second. What -- does SIP utilize third-
17 party administrators with respect to sexual abuse
18 claims?

19 A Third-party claims administrators?

20 Q Yes.

21 A No.

22 Q Okay. Is that done in-house?

23 A Yes, it is.

24 Q Got it. All right. Now we're going to
25 paragraph 7. Okay. Will you take a moment and read

1 through it, please?

2 A Okay. Okay.

3 Q All right. You say that, "The Diocese funds
4 sit primarily by billing each of the SIP participants a
5 ratable portion of the projected overall cost of
6 administering the program and paying claims using
7 allocation methodologies which take into account
8 numerous different ratable exposure bases."

9 A Yes.

10 Q That's a lot of ratable in there.

11 A Ratable.

12 Q Ratable. What do you mean by "a ratable
13 portion of projected overall cost of administering the
14 program and paying claims?"

15 A Where you can assign a specific insurance rate
16 to a specific coverage component. For example, property
17 insurance, you would take a rate times the replacement
18 value of the property, workers comp a rate times the
19 payrolls for a particular worker, and so on.

20 Q And for liability coverage for sexual abuse,
21 how does that work?

22 A That is included under a -- a general rating
23 of general liability insurance, which is based on a
24 combination of the size of a parish, as -- as the number
25 of families involved in a parish, and also the --

1 potentially, the square footage of a particular
2 structure. It's -- there's no specific sexual
3 misconduct rate. It is all included, as the coverage is
4 included, under one heading of general liability.

5 Q So it sounds to me like loss exposure -- or
6 loss experience, excuse me, by an individual SIP
7 participant is not a factor in your allocation
8 methodology?

9 MR. SHEEHAN: Objection to form. You can
10 answer.

11 THE WITNESS: I think as far as
12 experience of a SIP participant, no, that is not
13 included in a specific rate assigned to that parish.
14 That's --

15 MR. NASATIR: Okay.

16 THE WITNESS: -- correct.

17 BY MR. NASATIR:

18 Q Okay. The next sentence you say, "The Diocese
19 strives to achieve a consistent and fair allocation of
20 premium costs amongst the SIP participants." How does
21 it do that?

22 A A consistent and fair allocation is based on
23 the exposures that each of the participants have, such
24 as numbers of buildings, square footages and values of
25 buildings, numbers of employees, total payroll, number

1 of automobile vehicles. There's many different, as I
2 say, ratable exposures. So we -- the consistent and
3 fair allocation is to assess a certain amount of what we
4 call premium to a particular entity based on their own
5 individual exposures.

6 Q Okay. I think I recall you testified that the
7 insurance calendar year runs from July 1 to July 1; is
8 that right?

9 A That's right.

10 Q Okay. Does -- is that also a true statement
11 for the SIP fund?

12 A Yes, it is.

13 Q Okay. And at the end of the insurance
14 calendar year for the SIPs fund, if there's a surplus,
15 what happens to it?

16 A If there's a -- if there's a surplus, it goes
17 back into the reserve account for insurance services.

18 Q Is it --

19 A For the --

20 Q Is it rechanneled back into the SIP fund for
21 the next year?

22 A Yeah. Yes, it is.

23 Q Okay. What if there's a deficit?

24 A If there's a deficit, then we have to reduce,
25 we'll say, the assets that we have that are held against

1 the -- the program.

2 Q Do -- is the billing of each of the SIP
3 participants for the year after the fund closes with a
4 deficit impacted?

5 MR. SHEEHAN: Objection to form. You can
6 answer.

7 THE WITNESS: It is one of the -- it is
8 one of the components of after a -- after insurance year
9 closes and we're billing for the following year, that is
10 one of the components on whether or not there was, shall
11 we say, a -- a net loss.

12 BY MR. NASATIR:

13 Q So the -- is it like an assessment for each
14 parish, if there's a deficit in the -- for each SIP
15 participant, if there's a deficit in the SIP fund at the
16 end of the year?

17 A Not a specific assessment to each SIP
18 participant. It goes into the overall -- the overall
19 revenues that are -- that are -- are needed to run the
20 --

21 Q Okay.

22 A -- program.

23 Q Now, you say in this paragraph you budgeted --
24 or the Diocese budgeted 7.4 million in premium revenue
25 related to the -- to the SIP?

1 A Right.

2 Q Is that the total amount of money that was
3 raised from the SIP participants, or is that -- is that
4 all the money in addition to the money that was raised
5 by the SIP participants?

6 A The vast majority of that money is from the
7 SIP participants for their annual insurance assessments.
8 It's not 100 percent of it, but it is probably 90
9 percent of it.

10 Q Does the Diocese itself receive a ratable
11 portion in the form of a bill for the overall --

12 A Yes.

13 Q -- cost?

14 A Yes.

15 Q How is that calculated?

16 A Same way that everything else is calculated,
17 based on ratable exposures.

18 Q Can you give me a percentage of what annually
19 the Diocese's ratable portion is?

20 MR. SHEEHAN: Objection to form. You can
21 answer.

22 THE WITNESS: I can tell you that it is
23 -- I would say it's probably in the area of about 5
24 percent.

25 BY MR. NASATIR:

1 Q Okay. So since 1973 -- let me ask you, do you
2 know if that percentage has changed over time?

3 A I don't know the answer to that.

4 Q Okay. Prior to 1973, though, we can agree
5 that Diocese could not -- could not have been paying a
6 ratable portion of the SIP because it didn't exist,
7 right?

8 A Correct.

9 Q Okay. But notwithstanding that, is it fair --
10 isn't it true that the Diocese is using the SIP fund to
11 defend claims against it that existed from abuse
12 occurring pre-1973?

13 MR. SHEEHAN: Objection to form. You can
14 answer.

15 THE WITNESS: Okay. Yes, that would be
16 the case that I won't say defend, but since policies
17 back then were written on an occurrence basis, the --
18 the coverage then becomes the problem of the current
19 insurance program.

20 BY MR. NASATIR:

21 Q Right. And the policies issued to the Diocese
22 and the SIP -- other SIP participants turned into
23 claims-made coverage as opposed to occurrence coverage
24 in the late '80s; is that fair?

25 A Yes.

1 Q Okay. Okay. I only have a few more
2 questions. I'm going to -- I'm going to just finish
3 with the -- with your declaration, and I'm going to move
4 to a few billing letters. Okay?

5 A Okay.

6 Q I'm going to go to paragraph 17. Oh, I'm
7 sorry, before we get there, I apologize, I want to go
8 back to the -- we were talking about claims-made
9 coverage, and I want to just find that discussion.
10 Okay. Look at paragraph 9. Do you see the discussion
11 of the self-insured retention for \$250,000 for general
12 liability claims?

13 A Yes.

14 Q Okay.

15 MR. SHEEHAN: I'd appreciate it if you
16 read the whole paragraph, too.

17 THE WITNESS: Oh, okay.

18 MR. SHEEHAN: Just let us know when
19 you're done.

20 THE WITNESS: Okay.

21 BY MR. NASATIR:

22 Q Okay. Now, the T -- where is it? The
23 National Catholic Risk Retention Group, those policies
24 were issued in the 1990s and thereafter, right?

25 A From 1990 -- from 1999 forward.

1 Q Okay. And they're claims-made policies,
2 right?

3 A For sexual abuse coverage, they are claims-
4 made policies.

5 Q So in order for this self-insured retention of
6 \$250,000, it would have to be triggered in a policy in
7 the last several years where a claim had been made on
8 it, right?

9 MR. SHEEHAN: Objection. Form. You can
10 answer.

11 THE WITNESS: Not necessarily. It
12 depends on what the retroactive date is.

13 BY MR. NASATIR:

14 Q Fair enough. Let me put it another way. This
15 \$250,000 per claim self-insured retention only comes
16 into play if the National Catholic Risk Retention
17 Group's policy is covering the claim?

18 MR. SHEEHAN: Objection. Form. You can
19 answer.

20 THE WITNESS: I -- I don't like the way
21 that is phrased. Will you please explain what you're
22 looking for?

23 BY MR. NASATIR:

24 Q I'm looking for your acknowledgment that the
25 self-insured retention of \$250,000 is only triggered

1 when there's a claim against a National Catholic Risk
2 Retention Group policy that has that retention.

3 A No.

4 Q So it's applicable to every year from 1973
5 forward?

6 MR. SHEEHAN: Objection to form. You can
7 answer.

8 THE WITNESS: It -- what is the same
9 from 1973 forward?

10 BY MR. NASATIR:

11 Q No, I -- I'm simply trying to have you
12 acknowledge that your discussion here about \$250,000
13 self-insured retention relates only to the National
14 Catholic Risk Retention Group.

15 A Yes.

16 Q Okay. Thank you. That's all I was trying to
17 establish. Are there any other -- let me strike that.

18 Are you aware of any other self-insured
19 retentions that are -- that exist for any other policies
20 that cover sexual abuse claims?

21 A No.

22 Q Okay. Let's go to paragraph -- paragraph
23 before -- paragraph 17. Let me know when you're ready.

24 A I'll let you know. Okay.

25 Q All right. You say that the -- at the end of

1 paragra- -- it's at the end of the sentence -- hold on a
2 second. Do any of the policies that were issued post-
3 1973 to the Diocese and the SIP participants have
4 aggregate limits?

5 A Say that --

6 Q Strike that.

7 A -- again?

8 Q Strike that.

9 Let me ask a different question. Let me ask,
10 did any of the primary policies issued to the Diocese
11 and the SIP participants that cover sexual abuse claims
12 have aggregate limits?

13 A Since what time frame?

14 Q 1973 forward.

15 A Okay. Certainly since 1990 and forward, there
16 were aggregate limits. From 1985 to 1990, there were
17 coverage limitations as far as the amount of coverage
18 that was -- was given out, but still on -- that was on
19 an occurrence basis.

20 Q Okay. So let me narrow my question, because
21 you correctly pointed out in the '90s there were and
22 then post-'85. So let me be more specific. For
23 policies issued between 1973 and 19 -- and the end of
24 1984 --

25 A Okay.

1 Q -- did any primary policies have aggregate
2 limits?

3 MR. SHEEHAN: Objection to form. You can
4 answer.

5 THE WITNESS: I got to think about that
6 one a second.

7 BY MR. NASATIR:

8 Q Go ahead.

9 A As far as sexual misconduct coverage goes, I
10 -- I would have to look at those policies and -- and
11 determine whether or not there was an aggregate limit
12 that would apply to that. There are -- there were
13 aggregate limits within those policies.

14 Q Okay. Can -- but you can't tell me which ones
15 as you sit here?

16 A No.

17 Q Okay. Were you involved in the preparation of
18 a coverage chart with colors identifying different
19 insurance carriers?

20 MR. SHEEHAN: I'm going to object to the
21 form.

22 MR. NASATIR: Charles -- Charlie, you're
23 on -- not on mute. Please go on mute.

24 THE WITNESS: I -- I'm --

25 MR. SHEEHAN: Objection.

1 THE WITNESS: -- not going on mute.

2 MR. NASATIR: Charlie, you're not on
3 mute.

4 MR. SULLIVAN: Sorry.

5 MR. SHEEHAN: Objection. The extent that
6 answering the question would divulge any attorney-client
7 privilege information, I instruct you not to do so.
8 Also, objection to form. If you can answer without
9 divulging privileged information, you may do so.

10 THE WITNESS: That would -- that would be
11 violation of attorney/client privilege and I won't
12 answer.

13 BY MR. NASATIR:

14 Q Can you answer whether you've seen a color --
15 a coverage chart?

16 MR. SHEEHAN: Objection to form. You can
17 answer.

18 THE WITNESS: I have seen one, yes.

19 BY MR. NASATIR:

20 Q Have you reviewed it for accuracy?

21 MR. SHEEHAN: Objection to form. You can
22 answer.

23 THE WITNESS: Yes, I have.

24 BY MR. NASATIR:

25 Q Okay. I'm going to bring that up in a minute.

1 Going back to your declaration, you say in this
2 paragraph 17, "To the extent a claim remains unstayed,
3 the SIP will be required to expend its reserves to fund
4 defense costs." That would not be true for any claim
5 that falls within a year in which the insurer provides
6 defense, right?

7 MR. SHEEHAN: Objection to form. You can
8 answer.

9 THE WITNESS: In which the insurer
10 provides --

11 BY MR. NASATIR:

12 Q A defense.

13 A Say that again. Okay. "The SIP will be
14 required to expend its reserve to fund defense costs."
15 Again, what was your question?

16 Q Where the insurer is providing a defense, the
17 SIP will not have to expend its reserves to fund the
18 defense cost, will it?

19 A Where the insurer is providing a defense?

20 Q Yes.

21 A We'd still have to pay for the defense costs.

22 Q Is it your understanding that policies -- that
23 occurrence policies that were issued as primary policies
24 to the Diocese have no obligation to provide defense?

25 MR. SHEEHAN: Objection to form.

1 THE WITNESS: Which years are you talking
2 about?

3 BY MR. NASATIR:

4 Q '73 through '84.

5 A '73 through '84. Okay. The Diocese -- trying
6 to think of those years. Without looking at -- there
7 were so many different policies -- primary policies in
8 those years. I -- I really can't answer them unless I
9 had a chance to look at the actual insurance policies
10 themselves.

11 Q Would you agree with me that if the policy --
12 if a policy provides an obligation to defend and defense
13 costs are included in the definition of loss under that
14 policy, there would be no need for SIP to expend its
15 reserves to fund defense costs?

16 MR. SHEEHAN: Objection to form. You can
17 answer, if you know.

18 THE WITNESS: Well, it would up to the --
19 the appropriate self-insured retention or deductible
20 that was in place in those years.

21 BY MR. NASATIR:

22 Q Didn't we establish -- I thought we
23 established that there was no self-insured retention or
24 deductible in the years from 1973 through 1984.

25 A Again, I would -- I would have to look at the

1 policies themselves.

2 Q When you looked at the policies, after
3 determining that defense costs were incorporated in the
4 definition of a covered loss under that policy, would
5 you agree with me that the -- a SIP would not be
6 required to expend its reserves to fund defense costs?

7 MR. SHEEHAN: Objection. Form. Are you
8 asking him a hypothetical since he testified he'd have
9 to look at the policies?

10 BY MR. NASATIR:

11 Q Please answer the question.

12 MR. NASATIR: You can make your
13 objection.

14 THE WITNESS: Again, like he said, is
15 this a hypothetical question?

16 BY MR. NASATIR:

17 Q Will you please answer the question, Mr.
18 Scholl, and stop fencing with me?

19 A I'm not the one fencing here. And what was
20 the question again?

21 Q Having looked at the policies and determining
22 that defense costs were incorporated in the definition
23 of loss -- the covered loss under the policy, would --
24 do you agree with me that the SIP would not be required
25 to expand its reserves to fund defense costs?

1 A In --

2 MR. SHEEHAN: Objection.

3 THE WITNESS: In those particular --

4 MR. SHEEHAN: Call for speculation.

5 THE WITNESS: Okay. Sorry.

6 MR. SHEEHAN: Objection. Calls for
7 speculation. You can answer, if you know.

8 THE WITNESS: What I can tell you is that
9 the SIP would not have to expend defense -- its reserves
10 for defense costs in those particular years.

11 BY MR. NASATIR:

12 Q Okay. Would you agree with me that where a
13 policy has no aggregate limits, there's no risk of
14 depleting the policy?

15 A I do not agree with that.

16 Q Okay. Why?

17 A I just don't agree.

18 Q Well --

19 A There could be a lot of reasons.

20 Q Okay.

21 A (Indiscernible) no aggregate?

22 Q Yeah.

23 A Again, I don't know how to answer that. Are
24 you talking about sexual misconduct coverage? General
25 liability coverage?

1 Q I'm talking about policy issued between 1973
2 and 1984, that is a primary policy that has coverage for
3 sexual abuse claims. In that context, I am asking you
4 if it does not -- if those policies do not have
5 aggregate limits whether there's any danger of the
6 policy's proceeds being depleted or exhausted.

7 MR. SHEEHAN: Objection to form of the
8 question. The witness has testified multiple times he'd
9 have to look at those policies to answer specific
10 questions about them. Therefore, the question is
11 hypothetical and calls some speculation. You can
12 answer, if you know.

13 THE WITNESS: No, I don't know, and I
14 won't answer.

15 BY MR. NASATIR:

16 Q In your declaration in paragraph 17, you
17 state, "Moreover, with respect to any claim which is
18 successfully prosecuted against a SIP participant,
19 plaintiffs undoubtedly will look directly to any shared
20 insurance to satisfy any judgment, thereby depleting
21 dollar for dollar proceeds which would otherwise be
22 available to the Diocese bankrupt estate." Please
23 explain the basis for that statement.

24 A I will reread that.

25 Q Well, you can read it. It's in your -- it's

1 in your -- in your -- in paragraph 17.

2 A Yeah, I see it.

3 Q Okay. What's the basis for that statement?

4 A It's -- okay. "Available under -- and/or any
5 pre-'73" -- we're talking post-'73? I'm not sure.

6 Q It's your statement. You tell me what you
7 meant.

8 A Okay. "To the extent a claim remains
9 unstayed, okay, the SIP will be required to expend its
10 reserve to fund defense costs." Okay.

11 Q That's --

12 A That's true.

13 Q We've done that -- we've done that statement.

14 A "Moreover" --

15 Q Next one.

16 A "Moreover, with respect to any claim which is
17 successfully prosecuted against a SIP participant,
18 plaintiff undoubtedly will look directly to any shared
19 insurance to satisfy any judgment." Yes, that would be
20 for the insurance policy that is written on behalf of
21 the Diocese Buffalo and its SIP participants. They
22 share limits. So if a judgment goes up against a
23 particular SIP participant and that money is gone, then
24 there would be -- there would be dollar for dollar that
25 would have an adverse effect on -- on remaining

1 coverage.

2 Q Doesn't that assume that there are aggregate
3 limits on the policy?

4 MR. SHEEHAN: Objection to form.

5 You can answer.

6 THE WITNESS: Assume that there's
7 aggregate limits?

8 BY MR. NASATIR:

9 Q If you are saying that the -- you said if they
10 -- they share limits, so if a judgment goes against a
11 particular SIP participant, then that money is gone.
12 And I am asking, when you say they share limits, aren't
13 you talking -- are you talking about aggregate limits?

14 MR. SHEEHAN: Objection to form.

15 You can answer.

16 THE WITNESS: I'm talking about self-
17 insured retentions.

18 BY MR. NASATIR:

19 Q Okay. So this statement -- this statement,
20 beginning with "moreover", only applies to self-insured
21 retentions and deductibles?

22 MR. SHEEHAN: Objection to form.

23 You can answer.

24 THE WITNESS: Now -- now if the dollar
25 proceeds otherwise available to the Diocese bankruptcy

1 is taken, it -- it could also mean that there's
2 potentially insurance policy limits that are aggregated,
3 that would also -- that could also be exhausted, and
4 then there's no coverage after that.

5 BY MR. NASATIR:

6 Q Okay. So this sentence relates to either
7 self-insured retentions or aggregate limit policies; is
8 that fair?

9 A That's fair.

10 Q Thank you. All right. Now, I just have a few
11 exhibits to mark, and then I'll take a break to make
12 sure I don't have any other questions. And then you
13 might -- you'll either be done or maybe your attorney
14 will ask some questions.

15 MR. NASATIR: All right. Let me see if I
16 can successfully bring up some more exhibits. That's
17 not what I meant to do. Okay. All right. Share with
18 all. Here we go.

19 Would you please mark this as Scholl
20 Exhibit 4?

21 (Scholl 4 marked for identification.)

22 BY MR. NASATIR:

23 Q Mr. Scholl, have you seen this document
24 before?

25 A I've seen a form of this document before, but

1 not this specific one.

2 Q Okay. And for the record, we are talking
3 about this exhibit does not have a Bates stamp number
4 that I can see, but it does have in the upper left
5 corner -- I'm trying to highlight here. Whoops, it
6 says, "draft mediation confidential." I thought this
7 was the -- this was the one that was sent to me by Blank
8 Rome a day or two ago. I will -- for use in this
9 context, so I'm hoping that's not going to be a problem
10 that it has that on it, but it is the purports to be the
11 Diocese of Buffalo overage chart, 1972 through 2020.

12 And you say you've seen this document before,
13 sir?

14 A I have seen a form of this document. This is
15 an updated one that I have not seen.

16 Q Okay. Do you have any reason to believe that
17 any part of it is incorrect?

18 A I have no reason to believe that any of it is
19 incorrect.

20 Q Okay.

21 MR. NASATIR: Let's mark this as Scholl
22 Exhibit 5, please.

23 (Scholl 5 marked for identification.)

24 MR. NASATIR: This is document 8 --
25 sorry, it's dated July 19th, 2019, and it's Bates

1 stamped number DOB insur15222. And no surprise here,
2 Mr. Shawl has your name at the bottom.

3 THE WITNESS: Yeah.

4 BY MR. NASATIR:

5 Q Do you recognize this letter?

6 A Yes, I do.

7 Q Okay. And is it a reflection of the yearly
8 billing to SIP participants?

9 A Yes.

10 Q Okay. If you look at paragraph 2, it says,
11 "Two major components of insurance department expenses
12 are self-insured claims and premiums paid for both
13 primary and catastrophe insurance protection."

14 A Yes.

15 Q And then the next sentence, it says, "Self-
16 insured claims are right on track with budget. Just
17 over 2.1 million in paid losses. The budget of 2.9
18 million through nine months."

19 A Okay.

20 Q Does the self-insured claims you're referring
21 to include claims regarding sexual abuse?

22 A Yes.

23 Q Okay. Sorry, hold on a second. Looking at
24 the last sentence there, it says, "The premium increases
25 for "-- where -- "part of the increase" -- "premium

1 increases were for misconduct liability insurance."

2 Is that talking about the cost of procuring
3 current -- well, at least current for 20 -- 2019
4 coverage for sexual abuse.

5 A Where exactly is that in the letter? Which
6 paragraph?

7 Q The last -- it's the second paragraph, and the
8 last sentence.

9 A Okay. "Part of a distributable premium" --
10 yes.

11 Q Okay.

12 A Okay. And the -- the cost of excess
13 insurance.

14 Q Okay. And then when you say excess, you mean
15 above a self-insured retention?

16 A Correct.

17 Q Okay. And I also see, consistent with your
18 prior testimony, that some of the premium increases can
19 come from increased value in property, right?

20 A Yes, it can definitely come from that. Or
21 increased excess premiums. Yeah.

22 Q Got it.

23 MR. NASATIR: All right. Let me -- Let's
24 mark this as Scholl Deposition Exhibit 6.

25 (Scholl 6 marked for identification.)

1 MR. NASATIR: It is Bates stamped, DOB
2 Insur15226, and it bears the date September 16, 2021,
3 and has Mr. Scholl's name at the bottom.

4 BY MR. NASATIR:

5 Q All right. Do you see -- do you recognize
6 this letter as a -- another annual billing letter?

7 A Yes, I do.

8 Q Okay. I want to ask you about the last
9 sentence in paragraph 3.

10 A Taking a moment to get there.

11 Q Absolutely.

12 A Paragraph 3?

13 (Witness and Counsel confer.)

14 THE WITNESS: Okay.

15 BY MR. NASATIR:

16 Q Can you explain why there were extremely high
17 legal expenses due to the Child Victim Act legal
18 expenses?

19 A Well, okay, the -- the information is based on
20 -- on, I'll say, fiscal year. When that billing letter
21 goes out in 2021, it's based -- based on information
22 down for 2020 -- actually, fiscal year 9/1/20 to
23 8/31/21, at -- at that point in time when the letter
24 goes out. There were still significant, we'll say,
25 legal expenses that we were still paying out for, not

1 for specific cases, because the -- that was, of course,
2 post declaration of bankruptcy. But there were -- there
3 were still a lot of legal expenses that got assessed to
4 the Insurance Services Department for Blank Rome
5 expenses, those types of things. Those -- those kept
6 coming. So we still had, you know, a lot of legal
7 expenses for -- for the 2020 to 2021 year. That was
8 literally months after, a few months after the
9 declaration of bankruptcy. (Indiscernible -
10 simultaneous speech) --

11 Q So if these -- sorry, go ahead.

12 A That's okay.

13 Q So if these were mostly Blank Rome expenses,
14 would that mean that these were insurance related legal
15 expenses?

16 A I can't --

17 MR. SHEEHAN: Form.

18 THE WITNESS: I can't say they're mostly
19 Blank Rome expenses. I would have to go through
20 literally my -- my budget folder for that particular
21 year and break out the legal expenses between law firms
22 to really accurately answer that question.

23 BY MR. NASATIR:

24 Q Okay. Is it possible that any of these legal
25 expenses were expenses that were incurred pre bankruptcy

1 and are being billed post-bankruptcy?

2 MR. SHEEHAN: Objection to form. Object
3 to the extent that answering would call for attorney-
4 client privilege.

5 You can answer it up to the extent you
6 know. You can answer.

7 THE WITNESS: Well, yeah, I believe that
8 is attorney-client privilege for that information.

9 BY MR. NASATIR:

10 Q But in any event, the extremely high legal
11 expenses this year are being -- are part of this billing
12 to each of the SIP participants to put money into the
13 fund, right?

14 MR. SHEEHAN: Objection to form.

15 You can answer.

16 THE WITNESS: There's no direct
17 relationship between those high legal bills and charges
18 made to the SIP participants. It's a -- a group of
19 probably 50 different items that go into insurance
20 budget for paid claims, reserve claims, legal expenses.
21 In the aggregate, in the whole, that is what matters as
22 far as what gets filled out to the parishes. So there's
23 no direct relationship with that expense line.

24 BY MR. NASATIR:

25 Q Okay. So it's all part of general assessment

1 for each -- from each SIP participant?

2 A Right. Correct. Yeah. As it states in the
3 letter, it went up 9 percent that year, and increased
4 legal expenses was one component of that.

5 Q Understood. We got one more on this line of
6 questions -- okay.

7 MR. NASATIR: Let's mark this as Scholl
8 Exhibit 7. It is a document Bates stamp number DOB I-S
9 -- I-N-S-U-R 15228, dated August 26th, 2022.

10 THE REPORTER: The exhibit isn't showing
11 on my end to mark it yet.

12 MR. NASATIR: Okay. Oh, I haven't shared
13 it with you. That's my problem. Sorry. You think I'd
14 be getting more --

15 (Scholl 7 marked for identification.)

16 BY MR. NASATIR:

17 Q When you've had a chance to look at it, Mr.
18 Scholl, my question is going to be, is there any
19 substantive -- any significant difference between the
20 2022 billing letter and the 2021 or 2019 letter?

21 A No. In-- in general makeup of the letter,
22 they're similar every year.

23 Q Okay. And there's no change circumstances
24 that makes the 2022 billing letter different than the
25 others?

1 MR. SHEEHAN: Objection to form.

2 You can answer.

3 THE WITNESS: As I look through it, in
4 form, it's similar to the prior years. The --

5 MR. NASATIR: Okay --

6 THE WITNESS: Okay. Go ahead.

7 BY MR. NASATIR:

8 Q In the prior years and in this letter, there's
9 a two percent discount offered for prompt payment of the
10 entire premium. Is --

11 A That is correct.

12 Q Yeah. Is collecting the premium from each of
13 the SIP participants a problem?

14 MR. SHEEHAN: Objection to form.

15 You can answer.

16 THE WITNESS: No. In general, no.

17 BY MR. NASATIR:

18 Q No. And how -- what proportion of the SIP
19 participants take advantage of the two percent discount?

20 A Usually between one third and 50 percent.

21 Q Okay. Interesting.

22 A It's definitely going down this year.

23 Q Okay. Okay, Mr. Scholl, I need to take a
24 moment to review my notes.

25 MR. NASATIR: Can we take a ten-minute

1 break, and then I'll figure out what, if anything, I
2 have left?

3 THE WITNESS: Okay.

4 MR. NASATIR: Thank you.

5 THE REPORTER: Okay. The time is now
6 3:30 p.m., Eastern, and we're off the record.

7 (Off the record.)

8 THE REPORTER: The time is now 3:39 p.m.,
9 Eastern, and we're back on the record.

10 You may proceed.

11 MR. NASATIR: Thank you.

12 BY MR. NASATIR:

13 Q Mr. Scholl, did you discuss your deposition
14 testimony with anyone during the break?

15 A No, I did not.

16 Q Thank you. Mr. Scholl, did you have any
17 involvement in the parishes filing proofs of claim in
18 the bankruptcy?

19 A No, I did not.

20 Q Have you reviewed any proofs of claim that
21 parishes filed in the bankruptcy?

22 A No, I Have not.

23 Q IAG produced -- sorry, let me start --

24 In your declaration, you refer to IAG. Do you
25 know who to whom I'm referring?

1 A Yes. Insurance Archaeology Group.

2 Q Okay. What involvement did you have with
3 them?

4 A We contracted with them to assist in the
5 finding of old insurance information dating back in the
6 50s, 60s, and -- and beyond.

7 Q And this was relating to the pre 73 insurance?

8 A Yes.

9 Q Okay. And did they produce an Excel
10 spreadsheet of what -- of policies that they believed
11 were issued to individual diocesan entities during that
12 time period?

13 A Did they produce an Excel spreadsheet? I
14 don't know. I'm not sure.

15 Q Have you seen an Excel spreadsheet that
16 purports to list policies that would have been issued or
17 might have been issued to what you call non -- strike
18 that -- to parishes pre-1973?

19 MR. SHEEHAN: Objection to form.

20 You can answer.

21 THE WITNESS: Yeah. I have seen an Excel
22 spreadsheet with a lot of data relating to old policies.
23 Yes.

24 BY MR. NASATIR:

25 Q Okay. Have you reviewed it for accuracy?

1 A No, I have not.

2 Q What was the purpose of your -- did you review
3 it? You've seen it, but did you review it?

4 A Not at -- I did not review it in any great
5 detail.

6 Q Does it have any -- is your declaration in any
7 way based on its contents?

8 A No.

9 Q Okay.

10 MR. NASATIR: Can you mark this as Scholl
11 Exhibit 9? No, it's eight. Sorry, eight.

12 (Scholl 8 marked for identification.)

13 BY MR. NASATIR:

14 Q Have you seen financial statements like this
15 before, Mr. Scholl?

16 A Yes, I have.

17 Q Okay. You can go through it, but my interest
18 is going to be on -- oh, sorry. Let me just -- for the
19 record, this is a -- financial statements as of and for
20 the years ended August 31, 2015 and 2014. It is Bates
21 stamped number DOB General 23. And I am going to go,
22 for my questions, not surprisingly, to the heading
23 Insurance Activities, which can be found on page 13.

24 But you're welcome to look through it. But
25 eventually, that's what we're going to discuss.

1 (Witness and counsel confer.)

2 THE WITNESS: He said page 13?

3 MR. NASATIR: Yeah

4 THE WITNESS: We at 13 right now. Are
5 you talking about page 13 of the report?

6 MR. NASATIR: Yes, I'm talking -- yes,
7 I'm afraid that's what I am talking about. It's Bates
8 stamp number --

9 THE WITNESS: Yes, I see it.

10 MR. NASATIR: -- thirty-seven.

11 THE WITNESS: Okay.

12 BY MR. NASATIR:

13 Q Typically for these types of financial
14 statements, are you the author of the discussion under
15 insurance activities?

16 A No, I'm not.

17 Q Okay. Who is?

18 A The CFO.

19 Q Okay. Do you have any input into the
20 discussion of insurance activities in a financial
21 statement?

22 A No, I do not.

23 Q Have you seen this kind or this type of
24 discussion of insurance activities before?

25 A I have seen this every year in the financial

1 statements, yes.

2 Q Okay. So, first of all, CAO stands for
3 Catholic Administrative Offices?

4 A Well, technically, it's for Central
5 Administrative Offices.

6 Q Okay. For the Diocese of Public?

7 A Yes.

8 Q Okay. It says premium revenue. Again, does
9 the SIP fund consist of part of the premium revenue?

10 A Yes.

11 Q Okay. It says realized investment gain. Can
12 you tell me what that line is about?

13 A Yeah. That is - there are certain assets that
14 are designated for insurance, and that money -- that --
15 the funds in there, would have investment gains or
16 losses every year. And those two particular years,
17 those were, they realized, investment gains on the
18 portfolio.

19 Q So there is some form of stock or other type
20 of financial instrument that is earmarked for funding
21 the SIP; is that right?

22 A That is correct.

23 Q Okay. And it is not a product of the funds
24 raised through the SIP billing that we've been
25 discussing?

1 MR. SHEEHAN: Objection to form.

2 You can answer.

3 THE WITNESS: It is. I'm just trying to
4 think whether the funds -- the amount in those
5 particular funds do vary one year to the next based on
6 insurance activity, whether it be surplus or loss.

7 BY MR. NASATIR:

8 Q What I'm trying to understand is, it's an
9 investment which throws off interest, which is what I'm
10 seeing as the realized gain; is that right?

11 A Yes.

12 Q Okay. So the principal remains invested every
13 year, all the time; is that right?

14 A Yes, that is -- that is correct.

15 Q Okay. So the only variable here is the amount
16 of interest it's thrown off?

17 A Yes.

18 Q Got it. So is this a fairly standard
19 representation of a year of the insurance activities?

20 A Yes, it is.

21 Q Okay.

22 MR. NASATIR: All right. I have no
23 further questions, Mr. Scholl. I reserve the right to
24 ask any if there's any further questions.

25 MR. SHEEHAN: I have just one question

1 for the witness.

2 EXAMINATION

3 BY MR. SHEEHAN:

4 Q Mr. Scholl, do any of the policies that were
5 issued to the Diocese or SIP participants since 1973
6 have per recurrence limits?

7 A Since '73, yes.

8 Q Okay.

9 MR. SHEEHAN: I have no further
10 questions. Thank you.

11 MR. NASATIR: Thank you.

12 THE REPORTER: Okay. Before we go off
13 the record, I just want to confirm some orders. Mr.
14 Nasatir, you still want to expedite it for as soon as
15 possible, by today --

16 MR. NASATIR: Yes.

17 THE REPORTER: -- or tomorrow?

18 MR. NASATIR: Yeah. That'd be great.
19 That's a -- yeah -- we have not -- I'm sorry, we still
20 on the record or not?

21 THE REPORTER: We are still on the
22 record.

23 MR. NASATIR: Okay. We -- I do want to
24 establish a time by which, like we did yesterday with
25 Ms. Potzler, a time by which the witness will review the

1 transcript, make any corrections or changes, and get a
2 signature back. And if it isn't done within that time,
3 we can use a copy as if it were an original.

4 So, working off what the court reporter
5 said, they got us Potzler last night. If we get -- if
6 we get this transcript by the end of close of business
7 on Friday, could we get a commitment that we would get a
8 signed copy executed? Doesn't have to get to us, but
9 executed and the page sent to us before Thanksgiving?

10 MR. SHEEHAN: Yeah, we can do that.

11 THE WITNESS: Yeah.

12 MR. NASATIR: Okay. Thank you. Agreed
13 on that.

14 THE REPORTER: Okay. Thank you so much.
15 And, Mr. Sheehan, would you like to purchase a copy of
16 that as well?

17 MR. SHEEHAN: Yes, I will.

18 THE REPORTER: Okay. Thank you. And the
19 time is now 3:50 p.m., Eastern, and we're off the
20 record.

21 (Proceedings concluded at 3:50 p.m.)

22 (Read and Sign requested.)

23 * * * * *

24

25

1 CERTIFICATE OF NOTARY PUBLIC

2

3 State of Ohio)

4 County of Summit)

5

6 I hereby certify that on the 15th day of November
7 2023, before me, a RON notary public for the State of
8 Ohio, JOHN SCHOLL, remotely appeared via
9 videoconference, and prior to testifying, swore an oath,
10 to tell the truth.

11

12 DATED this 16th day of November 2023.

13

14

15 /s/Sarah Schroeter

16 Sarah Schroeter

17 RON Notary Public, State of Ohio

18 Commission No.: 2020-RE-823171

19 Commission Expiration: 11/29/2025

20

21

22

23

24

25

CERTIFICATE OF REPORTER

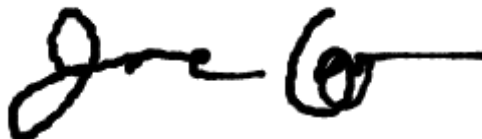
I, Jamie Godinez, hereby certify:

That the foregoing proceedings were taken
before me at the time and place therein set forth;

That the proceedings were recorded by me and
thereafter formatted into a full, true, and correct
transcript of same;

I further certify that I am neither counsel
for nor related to any parties to said action, nor in
any way interested in the outcome thereof.

DATED, this 16th day of November 2023.

A handwritten signature in black ink, appearing to read 'J. Godinez', with a horizontal line extending to the right.

Jamie Godinez, CER-1260

Certified Electronic Reporter

1 A C K N O W L E D G E M E N T

2

3 I do hereby certify that having been first
4 duly sworn to testify to the truth, I gave the above
5 testimony on November 16, 2023.

6

7 I further certify that the foregoing
8 transcript is a true and correct transcript of the
9 testimony given by me at the time and place specified.

10

11

12

13

JOHN SCHOLL

14

15 Sworn to before me this ____ day of _____, 20__

16

17

18

19 Notary Public

20

21

22

23

24

25

Deponent: JOHN SCHOLL

Deposition Date: Thursday, November 16, 2023

PAGE	LINE	CHANGE FROM/TO	REASON FOR CHANGE
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[illegible]

Under penalties of perjury, I declare that I have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

JOHN SCHOLL

Date

Sworn to before me this ____ day of _____, 20__

Notary Public

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